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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Consideration of reports submitted by States parties under article 9 of the Convention

Twenty-first and twenty-second periodic reports of States parties due in 2015

New Zealand*

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Annexes**

** Annexes can be consulted in the files of the Secretariat.

I.Introduction

About this report

1. This Report covers the period from December 2011-December 2015. It should be read with reference to the core document of New Zealand.[1]

2. The Report responds to the Committee's concluding observations following New Zealand's last report. Further, the New Zealand Government has included detailed information on measures taken to implement the concluding observations in paragraphs 10, 15, 18 and 19.

3. The Committee requested New Zealand provide relevant follow-up information and outline developments on the recommendations contained in paragraphs 8, 9, 14 and 17 of the concluding recommendations within one year. This was provided to the Committee on 24 April 2014.[2] The Report does not repeat this information, but will update it where relevant.

4. The Government consulted with national stakeholders and civil society while drafting the Report. A draft Report was circulated for public comment on 25 August 2015. Five submissions were received and information was gathered from the discussions in meetings held in Auckland and Wellington.

II. General information relating to the convention

Government policy and general legal framework

5. The Government is committed to the protection and promotion of international human rights, as embodied in the Universal Declaration on Human Rights and the other international human rights treaties to which New Zealand is a party.

6. The reporting period saw significant developments giving further effect to the Convention rights and recommendations by the Committee. These are addressed throughout the Report.

7. It is the ongoing policy of the Government to eliminate discrimination, intolerance and violence based on colour, religion, race or ethnic or national origin. New Zealand law protects freedom from discrimination on the grounds of colour, race, ethnic or national origins (which includes nationality or citizenship) or family status.[3]

Ethnic characteristics of the New Zealand population

8. The ethnic characteristics of the population of New Zealand appear in detail in the core document.[4] In the 2013 New Zealand Census of Population and Dwellings, 74 percent of the people identified as belonging to the European ethnic group; 15 percent as Māori; 12

[1] Information about Parliament, the courts, and Government activity is available at www.govt.nz. Legislation can be found at www.legislation.govt.nz.
[2] CERD/C/NZL/CO/18-20/Add.1.
[3] New Zealand Bill of Rights Act 1990, section 19(1); and Human Rights Act 1993, section 21(1).
[4] HRI/CORE/1/Add.33.

percent as Asian; 7.6 percent as Pacific peoples; and 1 percent as Middle Eastern/Latin American/African.[5]

Data available on racial discrimination in New Zealand

9. A 2012 report by Statistics New Zealand, based on a sample of 17,271 respondents concluded that racial discrimination was the most common form of discrimination experienced in New Zealand.[6] Six percent of respondents believed racial discrimination was the reason for them being treated unfairly or unfavourably. People who identified as Asian reported the highest levels of racial discrimination, followed by Māori and Pacific peoples, who reported similar levels of racial discrimination.

10. 2.3 percent of respondents reported experiencing racial discrimination in employment situations. This rate is similar to those who have experienced racial discrimination in public, with 2.5 percent of participants reporting this. Migrants were more likely to experience racial discrimination in the workplace than non-migrants. Under the Human Rights Act 1993 and the Employment Relations Act 2000 New Zealand employers must provide a safe working environment for their employees. The report concluded that racial discrimination was not only associated with a person's ethnic group, but also whether or not they were born in New Zealand.

The Waitangi Tribunal's report Ko Aotearoa Tēnei (Wai 262, 2011)

11. The Waitangi Tribunal's 2011 report *Ko Aotearoa Tēnei* is about New Zealand law and policy affecting Māori traditional knowledge, culture and identity. It also considers the future of the Crown-Māori relationship. It is a wide ranging report and was issued after a lengthy inquiry process and deliberations by the Tribunal. As New Zealand undertakes policy development, the recommendations in the report will continue to be factored in.

12. The Wai 262 report raises complex matters with implications in a number of different areas. For these reasons, the Crown has taken some time to consider its approach. Wai 262 issues are located within the broader context of on-going work to strengthen Crown-Māori relationships.

13. Further work remains to be done in all areas. However, a recent stocktake demonstrated that much work has been progressed, opportunities for further developments have been identified, and agencies continue to work to address Wai 262 issues. The stocktake indicates that:

- Initiatives within the wider context of the claims and recommendations relating to taonga works and intellectual property include matters such as passing the Ka Mate Attribution Act 2014, and policy and legislative developments relating to the trade mark and geographical indications regimes.
- Approaches to genetic and biological resources of taonga species have been progressed through the Patents Act 2013 and provisions in our Free Trade Agreements (since 2008) exist to protect this policy space (including, most recently in the Trans Pacific Partnership agreement).

[5] http://www.stats.govt.nz/Census/2013-census/profile-and-summary-reports/infographic-culture-identity.aspx.

[6] Statistics New Zealand (2012). Working together: Racial discrimination in New Zealand.

- Considerable progress has been made to address issues of Māori relationships with the environment including acknowledging kaitiaki interests and implementing co-management, co-governance and partnership models within the natural resource sector. Examples include national policy on freshwater, collaborative approaches to policy development, enhanced relationship with the Iwi Chairs Forum, a natural resources sector coordinated stock-take of engagement with Māori, and a number of legislative developments relating to New Zealand's exclusive economic zone, Environmental Protection Agency and the Resource Management Act 1991.
- A number of initiatives have been taken in relation to te Reo Māori. The most significant being the development of the Māori Language Strategy in 2014 and the Māori Language (Te Reo Māori) Bill.
- Mātauranga Māori is at the heart of Wai 262. As a result, the recommendations concerning mātauranga Māori are specific, resource intensive and Crown activity in this area remains under consideration.
- The Crown is engaging in genuine relationships with Māori to support rongoā Māori and the associated services.
- The Crown is addressing the recommendations relating to international instruments to varying degrees. For example, Free Trade Agreements are negotiated in such a way as to preserve the flexibility for the Crown to meet its obligations to Māori, including under the Treaty of Waitangi. The Crown also continues to implement its 2001 Strategy for Engagement with Māori on International Treaties in a responsive manner and regularly reports to a range of international bodies on its engagement with respect to Māori and Māori issues.

14. Further opportunities exist to progress initiatives that strengthen Crown-Māori relationships and intersect with the Wai 262 report. Agencies continue to develop opportunities as part of their broader engagements in the Treaty of Waitangi sector.

Efforts by the United Nations system to promote and protect the Rights of Indigenous Peoples

United Nations Declaration on the Rights of Indigenous Peoples

15. New Zealand supports UNDRIP as an important recognition of the rights and aspirations of indigenous peoples and a reaffirmation of its commitment to the duties and principles inherent in the Treaty. The Government notes that Māori have an interest in all policy and legislative matters and that these should reflect Māori custom, worldviews and cultural heritage.

16. The establishment of the Monitoring Mechanism Working Group (which represents the National Iwi Chairs Forum and associated iwi) regarding the implementation of UNDRIP was a positive development in sustaining a dialogue between Māori and the Government. The Monitoring Mechanism is a useful tool for indigenous people to engage with the Expert Mechanism on the Rights of Indigenous Peoples directly and independently of Government.

17. In its 2014 report Whaia Te Mana Motuhake/In Pursuit of Mana Motuhake: Report on the Māori *Community Development Act Claim (Wai 2417, 2014)* the Waitangi Tribunal made observations on the use of UNDRIP as a tool to help to assess and interpret actions of the Government under the Treaty and the principles of the Treaty.

World Conference on Indigenous Peoples

18. The September 2014 World Conference on Indigenous Peoples was an opportunity for New Zealand to reflect on progress since expressing support for UNDRIP and acknowledge remaining challenges. The Government supported the outcome document aiming to advance the rights of indigenous peoples, and is working towards applying the document to promote and advance indigenous peoples' rights.[7]

Annual United Nations Permanent Forum on Indigenous Issues

19. The Government attended the Fourteenth Session of the Permanent Forum on Indigenous Issues, held at the United Nations in New York from 20 April-1 May 2015. It confirmed it will continue to strengthen the Crown-Māori relationship to ensure long-term priorities are addressed for advancing indigenous well-being, including addressing domestic violence, youth unemployment and access to resources and land.

20. The Government reaffirmed its support for UNDRIP alongside the Treaty and existing legal and constitutional frameworks. The New Zealand delegation engaged with the Māori representatives attending the Permanent Forum, representing both iwi and other non-Government groups.

Special Rapporteur on the rights of indigenous peoples

21. In 2011, the then Special Rapporteur on the rights of indigenous peoples made reference to the significant strides made by New Zealand to advance the rights of Māori. He described the Treaty settlement process, despite shortcomings, as one of the most important examples in the world of an effort to address historical and ongoing grievances of indigenous peoples.[8]

22. In a 2012 letter, the Special Rapporteur brought the Government's attention to allegations received by a third party regarding its policy of negotiating historical Treaty settlements with large groups of iwi or a cluster of hapū rather than whānau. He raised concerns that through this policy, smaller groups were not able to have their rights and interests adequately represented within the Treaty settlement proceedings.

23. Following the Government response, the Special Rapporteur noted he was encouraged that remedies would be available should whānau be dissatisfied with the Treaty settlement framework.

III. Information relating to specific articles of the convention

Article 2

24. New Zealand does not have a fully written constitution. The constitution is found in formal legal documents, in decisions of the courts, and in practices (some of which have crystallised into conventions that are almost always followed).[9] The constitutional framework increasingly reflects the fact the Treaty is regarded as a founding document of government in New Zealand.

[7] A/RES/69/2.
[8] A/HRC/18/35/Add.4, paras. 35-42/ paras. 66 and 67/para. 73.
[9] https://gg.govt.nz/role/constofnz/intro.

New Zealand Bill of Rights Act 1990

25. The New Zealand Bill of Rights Act 1990 (**NZBORA**) affirms the human rights and fundamental freedoms in New Zealand. NZBORA also affirms New Zealand's commitment to the Convention through section 19, which sets out the prohibited grounds of discrimination as established under section 22 of the New Zealand Human Rights Act 1993 (the **HRA**), including discrimination based on race and ethnic or national origin.

26. Section 7 of NZBORA requires the Attorney-General to inform the House of Representatives of any provision in a domestic bill that appears to be inconsistent with any of the rights and freedoms affirmed in the Act. Parliament may form a different view about whether a particular right or freedom is limited or whether the limitation is justified. However, the decision is informed by the opinion of the Attorney-General. A review of Standing Orders in 2014 led to an amendment requiring all section 7 reports be referred to a select committee for consideration. All section 7 reports are made publicly available.

27. The Attorney-General issued no section 7 reports in the reporting period on racial discrimination. However, a non-Government Bill, the Affordable Healthcare Bill, triggered a section 7 report in 2015 as it was found to discriminate on the basis of national origin. The Bill was defeated at its first reading.

28. Section 5 of NZBORA provides that the rights and freedoms contained in the Act may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

29. Section 6 of NZBORA requires the courts to prefer possible interpretations of enactments that are consistent with the Act over interpretations that are inconsistent. However, no provision is invalidated or inapplicable by reason of its being inconsistent with a NZBORA provision (section 4).

30. The Ministry of Justice assists other government agencies in mainstreaming human rights into the public service and ensuring NZBORA is considered early in the policy development stage.

National human rights institution and Human Rights Act 1993[10]

31. The New Zealand Human Rights Commission (the **HRC**) is an independent Crown entity established by the HRA to:

- Advocate and promote respect for, and foster an understanding and appreciation of, human rights in New Zealand society and
- Encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand society.[11]

32. In accordance with the Paris Principles and the Statute of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, the HRC is accredited with an A-status.[12]

33. As one of the Human Rights Commissioners, the Race Relations Commissioner leads discussions in relation to matters of race relations, provides advice and leadership on race relations matters for the HRC. The current Race Relations Commissioner encourages New Zealanders to take personal responsibility for race relations and to defend victims of racial abuse when they see it occurring.

[10] http://www.hrc.co.nz/.

[11] http://www.hrc.co.nz/about/vision-mission-values-and-statutory-responsibilities.

[12] http://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart.pdf.

34. The HRC provides information and, if needed, free mediation for discrimination cases that are covered by the HRA. Mediation settles most complaints to the satisfaction of the parties. Dissatisfied parties can make a claim to the Human Rights Review Tribunal once the HRC's process is complete. The HRC's Office of Human Rights Proceedings can provide free legal representation for discrimination claims heard by the Human Rights Review Tribunal.

National action plan for human rights

35. The HRC is responsible for preparing a national plan of action for the promotion and protection of human rights in New Zealand under the HRA.[13] On 30 June 2015 the HRC launched New Zealand's second Human Rights National Plan of Action 2015-2019 as an online tool to monitor the Government's human rights record.[14]

36. The Action Plan sets out the actions the Government will take as a result of the commitments it made through its second Universal Periodic Review (UPR) in 2014. Using the UPR as a basis for the Action Plan provides a framework for dialogue between the Government and affected people.

37. The Action Plan tracks the Government's progress in implementing UPR recommendations and addresses, among others, issues such as harmonious relations, equality and non-discrimination in the criminal justice system and indigenous rights.

Human Rights Amendment Bill

38. The Human Rights Amendment Bill is currently before Parliament. It passed its second reading on 5 May 2015. It makes changes to strengthen the role of the HRC, including provision that dedicated commissioners be appointed to lead work in the priority areas of race relations, equal employment opportunities and disability rights. As the Bill requires a commissioner to be appointed to lead the work of the HRC in race relations, the statutory focus and formalised leadership role in race relations is retained. The Bill also revises the HRC's functions to reflect and preserve activities it already undertakes, such as promoting New Zealand's compliance with international human rights obligations, expressing opinions on any situation where human rights may be infringed, and promoting racial equality and cultural diversity.

Constitutional Advisory Panel — Te Ranga Kaupapa Ture

39. An independent Constitutional Advisory Panel was appointed in 2010 to consider a range of constitutional issues and to facilitate public engagement about our constitutional arrangements. In December 2013, following extensive public consultation, the Panel delivered its report on New Zealanders' views of constitutional issues and with advice to the Government on those issues.[15]

40. One of the key recommendations was the Government develop a national strategy for civics and citizenship education in schools and the community, including the unique role of the Treaty.

41. The Panel recommended the Government:

- Continue to affirm the importance of the Treaty as a foundational document

[13] Section 5(2)(m).
[14] https://www.hrc.co.nz/your-rights/human-rights/npa/.
[15] http://www.ourconstitution.org.nz/The-Report.

- Ensure a Treaty education strategy that includes the current role and status of the Treaty and Treaty settlement process
- Support the continued development of the role and status of the Treaty under the current arrangements as has occurred over the past decades and
- Set up a process to develop a range of options for the future role of the Treaty, including options within the existing constitutional arrangements and arrangements in which the Treaty is the foundation.

42. The Government welcomed the Panel's report, reflecting the views of over 5,000 New Zealanders and organisations. It will prove a valuable resource for New Zealanders now and in the future.

Case law on racial discrimination and harassment

43. Racial discrimination and harassment can be considered by the Employment Relations Authority under the Employment Relations Act 2000.[16]

44. Under the HRA, anyone can raise a personal grievance against a government agency or a private person in respect of race, colour or ethnic or national origins. Complaints referred to the HRC that are unresolved can go to the Human Rights Review Tribunal.[17] The Tribunal is independent from the HRC and deals with all claims relating to breaches of the HRA referred to it. The Tribunal has a monetary limit of $200,000, and can award compensatory damages for losses suffered and/or lost benefits — although typically awards are for injury to feelings, humiliation and/or loss of dignity.

45. The HRC received 1102 complaints related to race and its associated grounds (colour, ethnic and national origin) during the reporting period. The Tribunal dealt with one racial discrimination case involving a government agency.[18] It has decided several cases that have race implications between individuals and private employers, many of which relied on the ground of racial harassment. Apart from financial compensation the Tribunal frequently recommends measures to improve workplace culture. While these recommendations are not legally enforceable they reflect change to prevent such harassment, rather than providing compensation.

46. There must be a link between the act of harassment and race as a prohibited ground under the HRA.[19] The Tribunal makes it clear in its decisions that addressing racial discrimination and racial harassment is the responsibility of all New Zealanders, and it is unacceptable, particularly in the workplace.

Treaty of Waitangi

47. The day 6 February 2015 marked 175 years since the signing of the Treaty by the British Crown and Māori Chiefs. This important anniversary warranted a significant level of central government involvement. In his Waitangi Day Speech, the Prime Minister noted that the "*Treaty is a formal agreement but it must be interpreted over time, and adapt to new situations, through negotiation between the Treaty partners*".[20]

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[16] Employment Relations Act 200, ss 104(1) and 105(1).

[17] Human Rights Act 1993, s 21(1)-(e)-(g).

[18] http://www.justice.govt.nz/tribunals/human-rights-review-tribunal/decisions-of-the-human-rights-review-tribunal/decisions-under-the-human-rights-act-1993/2013/2013-nzhrrt-28.

[19] Fehling v. Appleby CIV 2014-418-000021 [2015] NZHC75.

[20] https://www.beehive.govt.nz/speech/waitangi-day-breakfast-speech.

48. The Waitangi 175 Working Group comprises representatives from a number of central government Ministries. It has a co-ordination role within Government with the following objectives:

- Commemorate the partnership created by signing the Treaty
- Raise awareness about the Treaty and what it means today and for tomorrow and
- Stimulate a conversation around nationhood, citizenship and civics.[21]

49. Inclusion of references to the Treaty in new legislation is considered on a case-by-case basis. About 30 Acts require decision-makers to have regard to the principles of the Treaty. Other legislation recognises particular rights or interests of Māori in decision-making about education, broadcasting and language. Where relevant, the courts consider the principles of the Treaty in deciding specific cases.

50. All Government departments have bilingual names, as used throughout the text of this Report. Māori protocols are often observed at official functions and Māori words, symbols and concepts are commonplace inside and outside the government and public sector.

The Waitangi Tribunal

51. The Waitangi Tribunal was established in 1975 because of the need to address deeply held concerns of Māori regarding the Crown's obligations under the Treaty, and to restore good Crown/ Māori relationships. The Tribunal performs a unique role, examining claims by Māori who may have been prejudiced by laws and regulations or by acts, omissions, policies, or practices of the Crown since 1840 that are inconsistent with the principles of the Treaty. The Tribunal was established as an independent statutory inquiry body with the powers of a commission of inquiry. The Tribunal makes findings on whether a claim is well founded because the principles of the Treaty have been breached in a manner that has caused prejudice to a claimant. The Tribunal's findings are binding on the Crown, in some limited circumstances involving the return of certain categories of property. The Tribunal aims to improve the settlement of claims by conducting a robust inquiry, identifying all parties and their representatives in a public and transparent process that clarifies key issues, resolves points of contention where possible, and delivers parties ready to negotiate a settlement.

52. The Tribunal is approaching the completion of its long-running district inquiry programme of historical claims. In July 2014, the Tribunal issued a new strategic direction for the next decade. By 2020 the Tribunal's strategic goal is to complete its six current historical inquiries, any remaining historical claims, and to progress high priority kaupapa claims. Kaupapa claims are claims that raise significant issues affecting Māori as a whole or a section of Māori in similar ways. When the current historical inquiries conclude the Tribunal will have reported on claims concerning more than 90 percent of New Zealand's land area (the remaining ten percent relates to claimants who chose to settle their claims with the Government without a Waitangi Tribunal report).

53. A district report can cover many hundreds of diverse and complex historical claims dating back to 1840 and can take several years to complete. The Ministry of Justice is, however, continuously looking at ways of assisting the Tribunal to do things more efficiently.

[21] www.mch.govt.nz/waitangi175.

54. The Tribunal currently has approximately 1800 registered claims before it. In 2008 the Government set a statutory closing of all historical claims. A significant number of claims were submitted prior to the closing date. The Tribunal first needs to consider whether these claims meet the criteria for registration. By April 2013 the number of outstanding unregistered claims was 876. At present, the number of unregistered claims is 108, a 87.7 percent reduction in unregistered claims.

Negotiation of Historic Treaty Claims

55. The Government's goal of settling historical Treaty claims is to achieve fair and durable settlements that contribute to the cultural, social and economic development of Māori and enhance the Crown-iwi relationship. The settlement of historical claims is directly negotiated between Māori claimant groups and the Government. This reflects the principle that claimant groups and the Crown are the only two parties who can, by agreement, achieve settlements.

56. Each settlement includes an acknowledgement and apology from the Crown for historic breaches of the Treaty, and the ongoing harm caused by these breaches. The Crown's apology is vital to rebuilding the relationship between the Crown and claimant groups in order to move forward as a nation. Settlements also include cultural and commercial/financial redress.[22]

57. The Government and iwi have reached a stage where over half the anticipated total number of deeds of settlement have been achieved and the majority of iwi, 84 percent, are settled or at various stages of Treaty settlement negotiations. As at 11 August 2015, seventy-four deeds of settlement have been signed and, counting claimant groups in their current configurations, sixty-one deeds of settlement remain to be completed.

58. The last five years have seen an increase in the number of deeds of settlement reached. This has been a result of operational changes to the way the Office of Treaty Settlements approaches and resources negotiations, and the consolidation of knowledge about how to conduct successful negotiations. Treaty settlements have benefited from strong political commitment as evidenced by the cross-party support that Treaty settlement legislation has generally received in Parliament.

59. While remaining focused on achieving Treaty settlements, the Government is increasingly turning its attention to ensuring the durability of Treaty settlements and the growing number and complexity of resulting commitments. While Government departments have responsibility for implementing settlement commitments, the Crown as a whole is responsible for ensuring commitments are met. The Government recently established the Post Settlement Commitments Unit within the Ministry of Justice. This unit's role is to work alongside the Crown, local government and iwi to safeguard the durability of settlements and ensure the gains made to Crown-Māori relationships through settlements are maintained and built upon.

Consultation with Māori

60. Although there is no single standard procedure for consulting with Māori, a number of principles have been established for consultation between the Government and Māori, including through the courts and the Waitangi Tribunal. The principle of partnership and commitment to an enduring Crown-Māori relationship is central to consultation, as is the

[22] Cultural redress can include: place name changes, the transfer of Crown land to the claimant group, and co-governance of rivers and lakes.

role of *kanohi ki te kanohi* engagement and to act in good faith. The Government continues to seek opportunities to strengthen the Crown-Māori relationship and improve consultation.

61. There are mechanisms in place for ensuring Māori participation in decision-making processes on issues affecting Māori and their right to free, prior and informed consent. These include Crown-Iwi Accords, Relationship Agreements, Protocols and Memoranda of Understanding between the Crown (through various agencies) and iwi. The biggest challenges for Government occur when Māori articulate rights and interests that are perceived to conflict with other public interests (e.g. Māori asserting interests in freshwater).

Māori customary law

62. Māori customary law, or Tikanga Māori, is a unique part of New Zealand's legal system. In its narrow and legal sense Māori customary law refers to Māori customs that have met specific legal tests so are enforceable in the courts. However, Māori customary law can be used in a broader sense to describe the body of rules developed by Māori to govern their societies. The rules embodied in Tikanga include, for example: leadership and governance on all matters including Māori land; relationships amongst hapū' and whānau; determining rights of land; and the exercise of kaitiakitanga practices including the imposition of rahui and other similar customs.

63. As a prerequisite to any legal recognition of custom, the court must establish the existence of the custom alleged, requiring proof by evidence.[23] Despite some uncertainty over the standard of proof necessary, the courts often require expert evidence supporting a custom's existence.[24]

64. Where there is a dispute between existing Māori custom and the common law, the courts must decide on the applicability of that custom to New Zealand law.[25] Tikanga and the phrase "in accordance with Tikanga" appear in more recent legislation, such as the Marine and Costal Area (Takutai Moana) Act 2011.

65. The current status of Māori customary law can be best understood through a high profile decision of the Supreme Court, Takamore v Clarke, addressing traditional Māori burial customs.[26] Māori burial customs were seen as being a relevant consideration to be weighed by the executor, in considering how executors exercise their rights. The courts did not address how Tikanga could itself be recognised by law.[27] It therefore remains to be seen if Tikanga will be enforceable as part of the common law of New Zealand.

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[23] Richard Boast "Māori Customary Law and Land Tenure" in Richard Boast and others (eds) Māori Land Law (2nd ed, LexisNexis, Wellington 2004) at ch 2.2.5.

[24] At 2.2.5. See *Te Weehi v. Regional Fisheries Officer* [1986] 1 NZLR 680 (HC) where evidence was supplied by a senior lecturer in Māori studies at Canterbury University and a local kaumatua. In *Arani v. Public Trustee of New Zealand* [1920] AC 198 (PC) published decisions of the Māori Appellate Court were relied upon, as well as information given by a distinguished New Zealand chief.

[25] See *Nireaha Tamaki v. Baker* [1901] AC 561 (PC) at 577-578; *Attorney-General v. Ngati Apa* [2003] 3 NZLR 643 (CA) at [34]; *Te Weehi v. Regional Fisheries Officer* above n 23, 687; *Hukina Development Trust v. Waikato Valley Authority* [1987] 2 NZLR 188 (HC) at 215.

[26] *Takamore v. Clarke* [2012] NZSC 116. The Supreme Court considered the question of competing rights between the common law and tikanga in the context of determining who was entitled to custody of Mr Takamore's body and had a duty to bury it. The Supreme Court considered the powers and duties of executors in determining burial and the rights of other interested persons. Executors were required to consider tikanga Māori and other important cultural, spiritual and religious values where these formed part of the heritage of the deceased.

[27] Cf. Dissenting opinion of Elias CJ at [95].

Review of Te Ture Whenua Māori Act 1993

66. The primary law relating to Māori Land is the Te Ture Whenua Māori Act 1993. It has been estimated that up to 80 percent of Māori land is under-performing for its owners, in many cases because of structural issues stemming from the existing legislation.

67. Legislation proposed from the review of the Act will enable Māori land owners to make decisions without needing approval of the Māori Land Court. Under the proposed Bill the Māori Land Court will continue to have a critical role in safeguarding the cultural and economic interests of Māori land owners but its role will focus more on issues not resolved by other means and requiring adjudication.

68. A new Māori Land Service will support Māori land owners to operate within the new legal framework. The Māori Land Service will provide land and title information, decision-making support, dispute resolution assistance and government services that strengthen the productivity and utilisation of Māori land.

69. A new $12.8 million Whenua Māori Fund will support targeted initiatives to improve the productivity of Māori land over the next four years.

Consultation process with Māori — Te Ture Whenua Māori Act

70. An independent panel was appointed in 2012 to review the Act. The Panel published a discussion document containing a number of propositions for reform. It held 20 consultation hui with Māori throughout the country and it received 189 written submissions. In September 2013, the Government accepted the panel's recommendations for reform and a technical team was formed to develop new legislation.

71. In May 2015, following extensive consultation with Māori advisers, iwi, and Māori groups across the country, the Government released an exposure draft of the new Te Ture Whenua Māori Bill for consultation prior to its introduction to Parliament. The Government and the newly appointed Ministerial Advisory Group (comprising Māori with extensive experience in Māori land ownership and management) held 23 consultation hui with Māori throughout the country and called for written submissions on the draft bill. A total of 394 submissions have been received.

72. The Te Ture Whenua Māori Bill will likely be introduced in 2016. Māori will have a further opportunity to provide input through the Select Committee process.

Holistic approach to development

73. Whānau Ora is an approach to achieving better outcomes for whānau and families in need by empowering whānau as a whole to identify their aspirations to improve their lives, and building their capacity to achieve their goals. It is a development rather than deficit approach.

74. With whānau working together to identify their needs, a plan can be developed to include anything from improving health outcomes for a whānau group, up-skilling and development or a focusing on getting a job.

75. Whānau Ora is delivered through:

- Commissioning agencies: non-government organisations contracted to fund and support initiatives which deliver the Government's Whānau Ora outcomes. They act as brokers in matching the needs and aspirations of whānau and families with initiatives that assist them to increase their capability.

- Provider collectives: provide services, incorporating a Whānau Ora approach, to whānau and families in need within their communities. These comprise whānau-centred health, education, social and other services/programmes.
- Navigators: practitioners who work with whānau and families to identify their needs and aspirations, support their participation in education, primary health and employment, and link and co-ordinate access to specialist services.

76. In the April-June 2015 quarter 4,856 whānau, representing 39,810 whānau members, were receiving whānau-centred services across 62 Whānau Ora provider collectives and specialist navigator providers. The number of whānau engaged varied month by month. Of the 4,856 whānau who received whānau-centred services, over 40 percent were closely supported by navigators. Provider collectives also offered a range of services based on whānau aspiration and need. In addition, a survey analysing phase one of Whānau Ora research and monitoring results to better understand whānau-centred approaches has been completed.

Te Puni Kōkiri — Ministry of Māori Development

77. In November 2013 Cabinet decided to refocus the role of **Te Puni Kōkiri**, the principal adviser to the Government on Crown-iwi relationships, to give effect to its three substantive roles — strategic leadership and guidance; advice to Ministers and agencies; and innovative investments. Te Puni Kōkiri's approach is to provide a mix of advice and investment focused on supporting positive Crown-iwi, hapū and whānau Māori partnerships and relationships, and state sector effectiveness for Māori.

The Marine and Coastal Area (Takutai Moana) Act 2011

78. The Marine and Coastal Area Act 2011 (the **MACA**) gives legal expression to the customary interests of Māori and protects the legitimate interests of all New Zealanders in the marine and coastal area of New Zealand. Neither the Crown nor any other person owns, or is capable of owning, the common marine and coastal area (the marine and coastal area excluding private property and certain conservation land). Access to this area is guaranteed for all New Zealanders except in wāhi tapu (areas sacred to Māori protected under the MACA) and where restricted under other Acts (e.g. health and safety).

79. Two types of customary interest can be recognised: customary marine title (**CMT**) (providing a property interest in land) and protected customary rights (which protect customary uses, activities and practices through prohibiting local authorities granting incompatible resource consents, unless the CMT holder agrees).

80. The test for customary marine title (holding an area in accordance with Tikanga and exclusively using and occupying since 1840) was determined after review of similar law in comparable jurisdictions and reflection of the unique cultural practices in New Zealand. The use of an area for navigation and fishing since 1840 by persons who are not members of an applicant group does not preclude recognition of title.

81. CMT provides a range of specified rights which are similar to those of private property owners but which can co-exist with public rights and activities (e.g. fishing and access). These include ownership of non-Crown owned minerals and a right to permit, or decline to permit, use and development requiring resource consent in the area. In recognition that CMT does not fully equate to free-hold title, the MACA provides some rights which are not available to private property owners — in particular, the right to prepare a planning document which can influence local authority planning and the right to exclude the public from wāhi tapu areas.

82. There are two pathways for Māori to apply for recognition of their extant customary rights in the common marine and coastal area. Iwi, hapū and whānau can seek recognition agreements directly with the Crown or apply for determinations in the High Court.

83. As of August 2015 the Crown has received 24 applications for recognition agreements and 5 applications have been transferred from the previous Foreshore and Seabed Act 2004. The Minister of Treaty Negotiations, who is responsible for determining applications is currently engaging with four new and three transferred applications, has declined to engage with ten (for reasons such as the complexity of overlapping interests) and is considering whether to engage with a further five. Five groups have withdrawn their applications. At this time, the High Court is addressing ten applications for recognition orders transferred to it from the previous Foreshore and Seabed Act 2004. No applications have been made to the High Court to date under the 2011 legislation.

Māori communities' rights to freshwater and geothermal resources

84. In its 2013 Concluding Observations, the Committee requested detailed information on measures taken to implement the recommendation related to Māori communities' rights to freshwater and geothermal resources.

Crown acknowledgement of iwi and hapū rights and interests in freshwater

85. The Crown acknowledges that iwi and hapū have rights and interests in freshwater resources.

86. The Waitangi Tribunal's National Freshwater and Geothermal Resources Claim (**Wai 2358**) began in 2012 and explores the nature and scope of rights and interests in freshwater and geothermal resources. Split into two stages, the first stage was heard urgently in light of the Crown's proposal to partially privatise certain power-generating State Owned Enterprises (**SOE's**). The Tribunal published its report on stage one in August 2012 (Wai 2358, 2012) and found that Māori have residual proprietary rights in freshwater.

87. In February 2013, the Supreme Court considered whether the proposal to partially privatise power-generating SOE's would impair the Crown's ability to recognise Māori rights in freshwater.[28] The Committee has previously noted the decision of the Court that the Finance (Mixed Ownership Model) Amendment Act of 2012 does not materially impair the Crown's ability or obligation to ensure the rights of Māori communities to freshwater and geothermal resources.

88. At the time of writing, the Tribunal has adjourned its hearing of stage two of the National Freshwater and Geothermal Resources Claim until February 2016 to allow the policy development process to progress further.

Providing for iwi and hapū rights and interest through freshwater reform

89. The Crown notes that there are many different elements to iwi and hapū rights and interests in freshwater. No single reform will adequately or appropriately provide for these rights and interests. The consideration of iwi and hapū rights and interests is being woven throughout the Crown's comprehensive freshwater reform programme, which has sequenced the implementation of key foundation reforms before the development of more detailed reforms.

90. The Crown has made progress to provide for iwi and hapū rights and interests through the first tranches of freshwater reform by:

[28] *New Zealand Māori Council v. Attorney-General* [2013] 3 NZLR 31.

- Funding initiatives, which have been developed and implemented in collaboration with iwi and other Māori organisations, to clean up iconic lakes and rivers
- Establishing a fund for projects that support or enable iwi and hapū to improve the water quality of freshwater bodies
- Providing national direction that councils must maintain or improve the overall quality of freshwater within a region and safeguard the life-supporting capacity of freshwater, ecosystem process and indigenous species
- Requiring councils to set objectives for freshwater bodies that reflect national and local aspirations and to set limits on water takes and contaminants to ensure those objectives are achieved
- Stipulating that councils must involve iwi and hapū in freshwater management and reflect tāngata whenua values and interests in decision-making about freshwater and
- Developing proposals for strengthening the role of iwi in freshwater planning and a collaborative planning process.

The Crown has committed to developing further proposals for policy reform to provide for iwi and hapū rights and interests.

The Crown and the Freshwater Iwi Leaders Group

91. The Crown has processes in place for direct Treaty-based engagement between Ministers and Iwi Leaders to consider and address collaboratively their shared views on iwi and hapū rights and interests, including freshwater.

92. The Crown has been engaging with the Freshwater Iwi Leaders Group (the ILG) on freshwater issues since 2008. The ILG comprises leaders of a number of iwi, including Ngāti Tūwharetoa, Waikato-Tainui, Whanganui, Ngāi Tahu, Te Arawa, Ngāti Porou, Ngāti Kahungunu, Ngāti Raukawa and Ngāti Kuri.

93. In January 2015, the Crown and the ILG agreed a work plan to work together throughout 2015 to develop further options for addressing iwi and hapū rights and interests in freshwater. The work plan includes the Crown releasing a discussion document for public consultation in early 2016.

Consultation with Māori — freshwater

94. The Crown acknowledges the policy development process with the ILG cannot be a substitute for the Crown's obligation to consult with Māori on freshwater issues. The Crown has committed to a good-faith consultation process with iwi, hapū and Māori to inform all major decisions regarding freshwater reform. The Crown carries out such engagement when reform proposals and plans have been developed to an appropriate point.

Māori Geothermal Advisory Group

95. In 2014, the Crown facilitated the creation of a Māori Geothermal Advisory Group to work with and provide advice to Māori organisations on how to maximise opportunities to utilise and develop direct use of geothermal assets.

96. Expectations of the group include discussing the aspirations of land owners and engaging agency support in their development pathways; identifying gaps in information and work with agencies to address them; sharing information and experiences; providing a Māori perspective on commercial projects and opportunities; and advocating a co-ordinated multi-agency approach which is efficient, effective and targeted to need.

He Kai Kei Aku Ringa

97. The Māori Economic Development Strategy and Action plan, *He Kai Kei Aku Ringa* is designed to boost Māori economic performance. Economically sustainable use of geothermal resources has been identified in the Action Plan. The strategic formation of the Advisory group aligns with the goals of "Government, in partnership with Māori, enables growth" and "Māori Inc. as a driver of economic growth".

Preventing violence against Māori and Pacific women

98. A 2015 research paper by the **Ministry for Women — Te Minitatanga mō ngā Wāhine** introduced an indigenous perspective to the international knowledge base for primary prevention of violence against women.[29] The paper explores what Māori women believe are protective factors to ensure safety from violence. Māori women are twice as likely to have experienced sexual abuse or assault as non-Māori women and report higher rates of historical childhood sexual abuse than both European women and those of other ethnic groups.[30]

99. The paper noted ensuring the safety of Māori women and girls is key to the advancement of New Zealand women and girls. It identified whānau as a protective factor for some women, yet for others it can potentially be a risk factor. Education, employment and positive association with an identity as Māori are supporting factors for wellbeing but do not prevent violence from occurring. The research provided a practical basis for service providers and policy makers developing approaches to accommodate the specific perspectives and needs of Māori women and their whānau.

100. Following publication of this research, a hui was held with Māori service providers around New Zealand to discuss the findings and discuss how to better accommodate the specific perspectives and needs of Māori women and their whānau.

101. New Zealand's universal no-fault accident compensation scheme funds support for victims of sexual abuse or assault. Around 32 percent of new sexual abuse/assault claims to **Accident Compensation Corporation (ACC) — Te Kaporeihana Āwhina Hunga Whara** are made by Māori. In March 2015, ACC introduced the new Integrated Service for Sensitive Claims which provides fully-funded flexible access to a range of support including one-to-one therapy, up to 20 family/whānau sessions, and up to 10 hours of cultural support. These service improvements are an important step in ensuring all aspects of these services recognise the needs of Māori and Pacific peoples.[31] ACC is working through existing partnerships with Māori iwi/organisations to further enhance the cultural responsiveness of services to prevent and support recovery from sexual violence.

Ministerial Group on Family Violence and Sexual Violence

102. Ministers of Justice and Social Development as co-chairs of the Ministerial Group on Family Violence and Sexual Violence gained Cabinet approval for a re-focussed cross-government family violence work programme in June 2015. The work aims to achieve an integrated and effective family violence system that is joined up, aligned, and making a difference.

[29] *Wahine Māori, Wahine Ora, Wahine Kaha. Preventing violence against Māori women.* Ministry for Women (2015).

[30] Mossman, E., Jordan, J., MacGibbon, L., Kingi, V., & Moore, L. (2009). Responding to sexual violence: A review of literature on good practice. Wellington: Ministry of Womens Affairs. p. 7.

[31] Clinical Review of the ACC Sensitive Claims Clinical Pathway. Wellington: Sensitive Claims Pathway Review Panel, September 2010.

103. The Ministerial Group acknowledges the need to incorporate Māori and Pacific peoples' perspectives into the work to improve the family violence system. The composition of the Ministerial Group includes Ministers with specific responsibilities for these population groups. These perspectives are informing and influencing the development of the work, including the necessity to develop responses targeted at particular population groups.

The Ministry of Pacific Island Affairs

104. The **Ministry of Pacific Island Affairs** (the **MPIA**) is the Crown's principal adviser on policies and interventions for achieving better outcomes for Pacific peoples in New Zealand. Almost half of New Zealand's Pacific community are of Samoan descent. The other main groups are from the Cook Islands, Tonga, Fiji, Tokelau, Niue and Tuvalu. Their median age is just over 21 years, compared with a median age of 35.9 for New Zealand's population overall. Around 60 percent of those identifying as Pacific ethnicity were born in New Zealand.

105. The Ministry's main objective is to lift the incomes, education outcomes and living standards of Pacific peoples. Driven by a vision of "Successful Pacific Peoples", the Ministry integrates Pacific communities' perspectives, values and beliefs into government policy development and works closely with these communities to gather information related to the barriers to success. It is also promotes and preserves Pacific languages and cultures.

Pacific Analysis Framework

106. The Pacific Analysis Framework (the **PAF**) is a Ministry-developed tool that provides agencies with an approach for identifying and incorporating Pacific peoples' perspectives into their policy process.

107. The PAF encourages a strengths-based approach to policy development, recognising Pacific people and communities have valuable skills and strengths — such as Pacific language capabilities and strong community networks — that should be reflected in the policy development. Alongside the PAF, the *Pacific Consultation Guidelines* clarifies the role of, and opportunities for, Pacific peoples to have input into policy making.

Immigration

108. In 2013-14, 44,008 people were approved for residence in New Zealand. 52 percent of approvals were through the Skilled/Business Stream, 40 percent through the two family sponsored streams and 8 percent through the International/Humanitarian Stream. China was the largest source country of permanent residence approvals (17 percent) followed by India (14 percent) and the United Kingdom (12 percent).

109. New Zealand accepts 750 (+/-10 percent) refugees annually under the UNHCR resettlement process. In September 2015, the New Zealand Government agreed that New Zealand resettle 750 Syrian refugees over the next two and a half years. Of the 750 places, 600 will be by way of a special emergency intake above New Zealand's annual refugee quota of 750, and 150 places will be offered within the quota. New Zealand also undertakes refugee and protection status determination where claims are made spontaneously within New Zealand.

Detention of asylum seekers

110. The Committee recommended in its 2007 Concluding Observations that New Zealand cease the practice of detaining asylum seekers in correctional facilities, and ensure health and character grounds upon which asylum may be refused remain in compliance

with international standards, especially the 1951 Convention relating to the Status of Refugees.[32]

111. The detention provisions in the Immigration Act 2009 are not specific to classes of people. People can be detained under the Immigration Act if there is doubt about the identity of the person, where there is a threat or risk to security, to facilitate legitimate removal action or it is otherwise in the public interest. The detention system is flexible because the court can refuse to issue a warrant for a person, or order the detention of a person for up to 28 days in a prison or in an approved premises or release them into the community on conditions. People detained under a warrant of commitment may apply to a District Court judge for a variation of the warrant or a release on conditions.

112. The small number of people who claim asylum in New Zealand (276 individuals made a first claim in 2013/14) and the fact that the majority of asylum seekers are not detained at any stage mean it would be impractical to construct dedicated asylum detention facilitates. Immigration New Zealand works closely with the Department of Corrections regarding the care of the small number of asylum seekers detained in correctional facilities. Asylum seekers are segregated in detention when possible and are not held with convicted criminals.

113. The Immigration Amendment Act 2013 introduced legislative change to manage a mass arrival of asylum seekers, should one occur in New Zealand. Measures in the 2013 Amendment Act include the ability to detain people under a group warrant for up to six months. This gives time for agencies to establish and confirm peoples' identity and status while they are housed in a safe and secure environment. In most cases people will be housed at the Mangere Refugee Resettlement Centre, a dedicated facility for refugees and asylum seekers. Unaccompanied minors are not covered by the provisions in the Act.

Settlement policies

114. The Migrant Settlement and Integration Strategy, approved by the Government in 2014, outlines the Government's approach to settle and integrate new migrants, so they may make New Zealand their home, participate fully and contribute to all aspects of New Zealand life. It reflects the changing focus of immigration policy towards meeting labour and skill shortages, the New Zealand Government's Business Growth Agenda (which seeks better economic and social outcomes, including through immigration), and the priority accorded to export education.

115. The Migrant Settlement and Integration Strategy places value on the long-term integration of migrants as well as successful initial settlement. It identifies five measurable settlement and integration outcome areas — employment, education and training, English language, inclusion, and health and wellbeing. Outcomes will be measured against success indicators using existing data-sets and surveys. The **Ministry of Business, Innovation and Employment — Hikina Whakatutuki** leads the implementation of the Strategy. Phase one has been completed and will determine whether available services and information provided to migrants are properly targeted. Information and service gaps, particularly those that will help to overcome employment barriers, are currently being addressed.

116. New Regional Partnership Agreements (RPAs) with local councils and economic development parties are being established as part of a new regional approach that focuses on attracting and retaining migrants. The first RPA was developed for the Auckland region and was launched in January 2015.

[32] CERD/C/NZL/CO/17, para. 24.

117. In July 2014, the Ministry implemented a new delivery model for settlement information for migrants that has resulted in information being more accessible to a greater number and range of migrants, and ensures that the information they receive is consistent and relevant.[33]

Settlement for refugees

118. In 2012 the Government approved the Refugee Resettlement Strategy to specifically address the settlement outcomes for refugees. This whole-of-government approach aims to help refugees more quickly achieve self-sufficiency, social integration and independence. The Strategy is underpinned by five integration outcomes in the following areas: self-sufficiency, participation, health and wellbeing, education and housing. Police play a role in this area, and help migrants to feel safe to seek help from police and provide opportunities to participate in their new communities.

119. Phase one of the Strategy implementation in 2013/14 focused on changes to the mix of services provided to refugees to support improved refugee settlement outcomes, including:

- Improved information provision to refugees offshore that informs refugees about life in New Zealand, the challenges they will face, the expectations of them and the support they will receive as refugees
- Better information sharing between agencies
- Changes to the reception programme at the Mangere Refugee Resettlement Centre to place greater emphasis on helping refugees to achieve employment, social integration and independence and
- Enhanced support during the first 12 months in the community which includes a community orientation programme that complements the reception programme and linking refugees to mainstream services they require to support their settlement in communities.

120. Phase two of the implementation of the Strategy in 2014/15 focused on mapping the English language needs for refugees. Phase Three implementation in 2015/16 is focusing on the interpreter barriers for refugees in accessing mainstream settlement services in the first three years of settlement.

Office of Ethnic Communities

121. The **Office of Ethnic Communities (OEC)** is based in the **Department of Internal Affairs — Te Tari Taiwhenua**.

122. OEC promotes the economic and social benefits of ethnic diversity, and working with government agencies and organisations to ensure that ethnic New Zealanders can participate in and contribute to all aspects of New Zealand life. It also works to foster connections between New Zealand's diverse ethnic and religious communities and the wider New Zealand population. This helps to ensure that New Zealanders from ethnic minorities/communities are treated fairly and equally, so they may enjoy life in New Zealand without fear of discrimination or harassment.

123. OEC provides information and advice to government, non-government organisations, businesses, and the wider public about issues relating to ethnic, linguistic and religious diversity.

[33] See also: www.newzealandnow.govt.nz.

124. OEC also administers the *Settling In* grants scheme which funds non-government organisations to address barriers to settlement for migrant communities, and to promote self-reliance and community sustainability within ethnic communities. OEC's Language Line interpreting service is a translation service over the phone when dealing with government and major service agencies. OEC is also currently developing a framework to support the maintenance and promotion of heritage and community languages

125. OEC is New Zealand's "focal point" for the United Nations' Alliance of Civilisations, which means it is responsible for drafting and coordinating New Zealand's Plan of Action. This plan lays out various activities aimed at bridging the divide between cultures and faiths and by promoting intercultural cooperation and understanding. OEC issued an update to New Zealand's Plan of Action in 2013, and is currently working across government to coordinate the next plan of action for 2016/2017.

Article 4

Unlawfulness of racial disharmony and offence of inciting racial disharmony

126. It is unlawful to excite hostility against or bring into contempt any group of persons on grounds including colour, race, or ethnic or national origins through published or distributed written matter or spoken words in public. Throughout the reporting period, the HRC has received 243 complaints under section 61 of the HRA.

127. In the absence of a specific offence of "hate speech", section 131 of the HRA makes inciting racial disharmony an offence. There have been no prosecutions under this section during the reporting period.

Responding to racially motivated offences

128. It remains an aggravating factor under the Sentencing Act 2002 if an offence is partly or wholly committed because of a hostility towards a group of persons who have an enduring common characteristic such as race, colour or nationality; and the hostility is because of that characteristic; and the offender believed that the victim has that characteristics.[34]

Harmful Digital Communications Act 2015

129. The Harmful Digital Communications Act was enacted by Parliament on 2 July 2015.[35] The Act addresses harmful digital communications, which include bullying, stalking, harassment, malicious impersonation and serious threats carried out via digital communications. Inciting racial hatred through digital communications is prohibited.

130. The Act responds to the 2012 findings of the New Zealand Law Commission that existing remedies for harmful communication, for example defamation and offences relating to threats, intimidation and vilification, do not effectively address new forms of harm made possible by increasingly accessible and powerful forms of digital communication.

[34] Section 9(1)(h).

[35] http://www.parliament.nz/en-nz/pb/legislation/bills/00DBHOH_BILL12843_1/harmful-digital-communications-bill.

Objectionable Publications and Indecency Legislation Act 2013

131. The Objectionable Publications and Indecency Legislation Bill passed into law in April 2014. The Bill amended various Acts to strengthen New Zealand's objectionable publications offences, including those involving child exploitation material.

132. Among other things, the Bill increased the maximum penalties for possession, import, export, supply, distribution, and making of an objectionable publication, which includes material that is racially discriminatory. It also removed the requirement to obtain the Attorney General's consent for public prosecutions of objectionable publications offences.

Immigration distinctions based on nationality

133. There is a procedural exemption to the HRA where the complaints process is not available in actions that allege discrimination in relation to the Immigration Act and any regulations and policy made the Immigration Act. The HRC cannot receive complaints, bring proceedings or intervene in civil proceedings, in relation to immigration decisions. Although the Immigration Act provides for a partial exemption from human rights scrutiny, immigration legislation, policies and practices are still subject to the non-discrimination standard provided for under the NZBORA. This means that policy and legislative proposals must be assessed for consistency with the right to be free from discrimination under section 19(1), and decisions thereon must be consistent with the NZBORA.

The New Zealand Police respecting ethnic diversity

134. The **New Zealand Police — Ngā Pirihimana o Aotearoa** works with different ethnic communities to help prevent crime, clashes and victimisation in communities.

135. Police's Māori Pacific and Ethnic Services aims to enhance Police commitment and leadership on responsive policy development and services to Māori, Pacific and ethnic peoples. Initiatives targeting different community groups, such as the Auckland Safety Patrols consisting of over 170 volunteer patrol members from 30 different ethnic groups, who provide over 500 hours of patrolling a month.

136. Actions Police have taken during the reporting period include:

- In 2012, Police sponsored the New Zealand Diversity Forum, facilitated by the HRC, bringing together individuals and organisations to share ideas on fostering cultural diversity and positive race relations for the elimination of racial discrimination.
- In 2015, Police refreshed its ethnic communities strategy. *Working Together with Ethnic Communities — The Future*, has three main objectives of leading ethnic responsiveness, building capability for ethnic diversity and working with ethnic communities. These objectives will be implemented over the next 5-7 years.
- In 2015, the Commissioner's Ethnic Communities Focus Forum was established, bringing together 12 key nation-wide ethnic representatives to provide strategic advice to the Commissioner and the Police Executive for engaging with ethnic communities.
- Police signed two Memoranda of Understanding with the New Zealand Federation of Multicultural Councils and the Federation of Islamic Associations of New Zealand to work in partnership to address mutual priorities.

- Progressing the initiative *Turning of the Tide: A Whānau Ora Crime and Crash Prevention Strategy* which commits Police and Māori to working together to achieve common goals and sets specific targets to reach by 2014/15[36]

Ethnic diversity in Police recruitment

137. Police have campaigns to recruit officers from different ethnic backgrounds to reflect national diversity in Police staff. Police have signed a Memorandum of Understanding with *Te Wananga o Aotearoa* to deliver a pre-recruitment course.

138. In 2013 Māori made up 10 percent of Police. In 2014 the proportion of Māori Commissioned Officers increased to 12 percent with new Māori Responsiveness Managers appointed in each district.[37]

139. In 2014, the MPIA signed a Memorandum of Understanding with Police to focus on recruitment and retention of Police officers drawn from Pacific communities.

Training in Māori culture and protocol

140. Frontline police are trained in Māori language, culture and protocol. A group of senior *kaumātua* and *kuia*, known as the Commissioner's Māori Focus Forum, provide advice, guidance, and help implement the Māori policing strategy. Each police district has its own District Māori Advisory Board made up of representatives of local iwi to help police commanders at a local level. Additionally, Police have a group of iwi liaison officers who help navigate cultural issues and work on improving police relationships with Māori.

141. The Māori Wardens Project is a joint venture with Te Puni Kōkiri and Police. The project provides training and support to wardens involved in a range of activities such as security at events and in public places, street patrols, caring for *rangatahi* (the younger generation) hospital visits, and court attendance and support.

Article 5

142. The Government recognises the ongoing inequalities facing Māori and Pacific peoples in employment, education, health, social services and housing and that it is essential these inequalities are addressed. Overrepresentation of Māori in the justice and prison system is of particular concern, and reducing Māori offending and recidivism is a priority for the Government.

143. In its 2013 concluding observations, the Committee drew attention to the importance of intensifying its efforts to improve the outcomes of the Māori and Pacific peoples in employment, health and the administration of criminal justice by addressing existing structural discrimination.

Criminal justice system

144. The Government has set ambitious Better Public Services targets for the justice sector: to reduce overall crime by 20 percent by June 2018 and to reduce violent crime by 20 percent, youth crime by 25 percent, and re-offending by 25 percent by June 2017. The recorded crime rate in 2014 was the lowest in 36 years, and numbers in courts are

[36] Described in New Zealand's Sixth Periodic Report under the International Covenant on Civil and Political Rights CCPR/C/NZL/6, para. 210.

[37] Based on population data gathered in 2013.

decreasing. As of December 2014, overall, the re-offending rate has fallen 8.3 percent since June 2011.

Over-representation of Māori and Pacific peoples in the criminal justice system

145. Over-representation of Māori and Pacific peoples in the criminal justice system is an ongoing concern for the Government. Significant progress has been made to improve the responsiveness of the criminal justice system to Māori and Pacific peoples. Addressing the underlying social causes of Māori over-representation in both victimisation and the justice system is a long-term challenge the Government is determined to tackle efficiently.

146. To reduce re-offending by 25 percent for all offenders by 2017, the **Department of Corrections — Ara Poutama Aotearoa** must reduce re-offending by Māori, who make up a disproportionate amount of offenders serving sentences. The Department of Corrections is committed to building a working prison network where prisons are a structured environment where all prisoners take part in some form of work, education or rehabilitation programme. Better scheduling of interventions, a new prisoner placement system and optimised opportunities for prison industries will enable this.

147. Māori and Pacific offenders can access and benefit from all rehabilitative programmes, including alcohol and drug treatment, mental health programmes, education and training, and work and living skills programmes.

148. As part of efforts to reduce re-offending by 25 percent by 2017, Māori offenders also receive support to successfully reintegrate back into the community, including the Out of Gate programme which helps offenders and their whānau to receive access to social services, Release to Work, and supported accommodation.

149. The Department of Corrections also provides programmes and interventions aimed at reducing reoffending through the integration of Tikanga behavioural guidelines for daily life and interaction in Māori culture. Examples are:

- *Te Tirohanga* is a Māori Tikanga based therapeutic community environment (Mauri Tu Pae) running out of whare in five prisons. Māori kaupapa values underpin and inform an 18 month graduated programme, in preparation for an offender's eventual release back to their community and whānau.
- *Tiaki Tangata* offers reintegrative support within a whānau-centric Māori environment and assists prisoners to prepare for release and supports and mentors them throughout their transition and settlement into the community.
- *Whare Oranga Ake* focuses on successfully reintegrating prisoners with medium to high reintegrative needs within a kaupapa Māori environment, particularly in the area of employment, accommodation and relationships. Prisoners can participate and reintegrate back into the community through a safe and controlled setting.
- The *bicultural therapy model* is a national psychological treatment programme aimed at male child sex offenders or violent offenders. The model utilises both Tikanga Māori and Western Psychology for self-development and whānau healing.
- *Tikanga Māori* prison programmes are group-based programmes delivered by Māori service providers that use Māori philosophy, values, knowledge and practices to emphasise the relationship of the individual with their social and cultural environment.

150. There are a number of initiatives aimed at offenders on community-based sentences, such as *Tai Aroha*, a violence prevention programme, which aims to provide a culturally responsive rehabilitation experience, in particular for Māori participants; *Tikanga Māori* in

the community, and the use of *Specialist Māori Cultural Assessments* carried out by a Māori assessor to address an offender's responsivity and motivational behaviour.

151. The Department of Corrections also has a number of initiatives aimed at Pacific prisoners:

- The *Pacific Focus Unit* offers a prison environment aimed at motivating Pacific prisoners to address their offending behaviour, provides a venue for rehabilitation programmes and an environment where pro-social behaviours can model Pacific values and beliefs. The unit has capacity for up to 80 offenders at any one time.
- *Saili Matagi* (in search of winds) is designed for Pacific male prisoners currently serving a sentence for violent offences and assists prisoners identify and change the beliefs, attitudes and behaviours that have resulted in their violent offending by using Pacific cultural principles as the basis for its approach.

152. The Government is operating an Alcohol and Other Drug Treatment (**AODT**) Court Pilot designed to provide treatment and judicial oversight in instances where alcohol or drug issues have contributed to offending. Sentencing is postponed in the case of defendants selected to participate in the AODT Court and can take account of success following treatment. Ethnicity is a "weighting factor" for selection to participate in the AODT Court and Māori defendants are given priority. At the end of 2013, 44 percent of participants identified as Māori. A Māori cultural advisor attends the AODT Court and informs the process.

Consultation with the Māori community on criminal justice issues

153. Māori-orientated interventions by the Department of Corrections are designed and carried out in collaboration with Māori service providers and communities. The Department engages with iwi groups and whānau for strategic guidance and advice, and support, and is increasingly taking Māori perspectives into account in its decision-making process.

154. The Department of Corrections has developed a range of initiatives and approaches in collaboration with Māori. Furthermore, at Te Tirohanga whare, the Māori Governance Board advises and endorses the majority of decisions regarding how the units operate. The Board was established in 2014 and consists of five iwi representatives from the areas in which Te Tirohanga is situated.

155. Māori programme participation is increased through *Kaitiaki*. *Kaitiaki* are an on-site presence who provide support for management to ensure Tikanga practices are authentic and offer cultural advice to both offenders and staff.

156. The Department aims to strengthen Māori community structures through the following initiatives:

- The *Kaiwhakamana* Visitor Policy — *Kaiwhakamana* are non-departmental employees who are specified visitors, and include kaumātua, kuia, tohunga, spiritual leaders and others. They give cultural and spiritual support to Māori offenders, and help offenders engage with their iwi, hapū or whānau.
- *Pou arataki* are whānau liason officers who help offenders build whānau support throughout the Te Tirohanga programme.

157. The Department of Corrections commitment to including Māori perspectives in the decision making process has been crystallised through the creation of the "Service Development Champions" team. This group promotes better outcomes for Māori offenders, mainly by promoting the inclusion of Māori perspectives in designing of initiatives and sharing lessons about incorporating Māori inclusion and effectiveness.

Partnering to Reduce Offending and Victimisation

158. The Partnering to Reduce Offending and Victimisation project tests a partnership approach between sector agencies (Police, the Department of Corrections and the Ministry of Justice) and iwi/Māori organisations. It aims to improve justice outcomes in communities dealing with high levels of offending and victimisation.

159. The project focuses on three community-delivered services: pre-charge iwi justice panels; pre-sentence restorative justice conferences; and post-release intensive case management. These panels receive referrals of low-level offenders from Police. The panels which are made up of community members then work with the offender to address the circumstances around the offending. This could include referrals to education/training programmes, alcohol and other drug treatment, driver licensing assistance, and mentoring.

160. In 2015 Police in partnership with the community established an early intervention Family Violence facility in Auckland called Gandhi Nivas. The facility provides free counselling and temporary accommodation for men who have been served a Police Safety Order. The facility ensures that victims stay in their own home while the perpetrator is provided immediate counselling. In the last nine months 98 men have successfully used the facility. Gandhi Nivas was initially for South Asian males but has since expanded to other groups.

Restorative Justice

161. The use of restorative justice is a key measure in helping to reduce reoffending within Māori, Pacific and other ethnic groups. Restorative justice is a community-based approach to responding to crime. It aims to hold offenders accountable for their offending and, to the extent possible, repair the harm caused to the victims and community. It gives victims a voice in the criminal justice system and may enable them to receive answers, apologies and reparation. The Ministry of Justice contracts 26 community-based providers, including iwi/Māori providers, to deliver restorative justice services across New Zealand. Contracts require that restorative justice facilitators deliver services in culturally appropriate ways. Services can be delivered on marae.

162. On average, offenders who participated in a Police or court-referred restorative justice conference committed 23 percent fewer offences than comparable offenders over the following 12 month period and had a 12 percent lower rate of reoffending than comparable offenders over the following 12 month period.

Operation Eight

163. Operation Eight was a Police operation which began in late 2005 as an investigation into alleged paramilitary training camps. It ended on 15 October 2007 with the coordinated arrest of several suspects, the execution of 41 search warrants throughout the country, and the establishment of road blocks at Ruatoki and Taneatua, in an area of particular cultural significance to the Tūhoe iwi.

164. The Independent Police Conduct Authority (IPCA) investigated a number of complaints about Police actions during Operation Eight. In May 2013 the IPCA issued a report concluding several aspects of Operation Eight were unreasonable and contrary to law. The IPCA found "that Police were entitled, on the information they had, to view the threat posed by this group as real and potentially serious. The investigation into such activities by Police was reasonable and necessary."[38]

[38] http://www.ipca.govt.nz/Site/publications/Default.aspx.

165. The IPCA made several operational recommendations to minimise the impact of armed police operations on members of the community. One recommendation was for Police to re-engage with Tūhoe and take appropriate steps to build relationships with the Ruatoki community to increase trust and confidence in Police.

166. On 27 July 2014 Police Commissioner visited several Tūhoe whānau to deliver a personal apology for the Police actions during Operation Eight. In August 2014 the Police Commissioner was welcomed onto Te Rewarewa Marae, Ruatoki. He was accompanied by Māori Leaders, representatives of tribal groups from throughout the country, 90 police officers from the Bay of Plenty District, Iwi liaison officers and the Police Executive. The Commissioner officially apologised to the Tūhoe for the Police's actions during the raids on the Taneatua and Ruatoki communities. He acknowledged the way in which police acted caused a loss of credibility and mana for the iwi.

Youth Justice

167. The Youth Crime Action Plan 2013-2023 (the YCAP) is a 10 year plan to reduce crime by children and young people, and help those who offend to turn their lives around. It identifies "reducing escalation" and "early and sustainable exits" as two key strategies for addressing underlying causes of youth offending, which should in turn improve outcomes for Māori young people in the youth justice system, and reduce Māori over-representation.

168. The third key strategy of YCAP is "partnering with communities", recognising that communities have a critical role to play in reducing youth crime. As part of this strategy, communities are assisted to develop action plans to reduce youth crime, with a focus on local issues and solutions. Planning is underway in a number of communities. Work is also underway to encourage stronger iwi involvement in addressing lower-level offending by young Māori.

Rangatahi and Pacific peoples Youth Courts

169. The Rangatahi and Pacific peoples Courts are a judicial initiative established in 2008. The courts encourage strong cultural links by meaningfully involving communities in the youth justice process to reduce re-offending by young Māori and Pacific peoples. After first appearing in the mainstream Youth Court, young offenders may be offered the opportunity to have subsequent hearings at the Rangatahi or Pacific peoples Courts.

170. Hearings of the Rangatahi Court are held on a marae. Kaumātua take part in the hearing. The judge is proficient in the Māori language and understands the Māori worldview. Emphasis is placed on the young person learning who they are and where they are from.

171. The active involvement of whānau, hapū, and iwi is fundamental to the process. There is a greater emphasis on the provision of holistic wrap-around services to support each young person.

Political Rights

Māori and Pacific peoples' participation in government

172. New Zealand's turnout of enrolled voters was 77.9 percent in 2014. Election surveys indicate non-voters are more likely to be Māori or Pacific Island ethnic groups. The Electoral Commission prioritises increasing participation amongst Māori and Pacific Islanders through education and research-based projects.

173. New Zealand's mixed member proportional voting system, which includes the provision for separate Māori representation in the legislature through the Māori electorates,

has resulted in increased Māori parliamentary representation, with members of Parliament identifying as Māori now making up 25 percent of Parliament (up from 22 percent following the 2011 election).[39] In addition to Māori MPs, Parliament had six MPs of Pacific Island descent and five of Asian descent in 2011, and eight and five respectively in 2014. One of the co-leaders of the Green Party and the leader of New Zealand First, the third and fourth largest parties in Parliament respectively, are of Māori descent.

174. Within the Government, three current Cabinet Ministers are of Māori descent, holding portfolios in Education, Energy, Local Government and Transport, amongst others. One Cabinet Minister is of Pacific Island descent, and holds the Corrections and Pacific Peoples portfolio. The leader of the Māori Party is a Minister outside of Cabinet holding the Māori Affairs portfolio.

175. Māori may enrol to vote on the Māori or general electoral roll. The size of the Māori electoral roll, calculated through the five-yearly Māori Electoral Option, determines the number of Māori electorates. 55 percent of declared Māori voters are currently enrolled on the Māori roll. The Māori roll and the continuing Māori Electoral Option ensure fair representation for Māori. Aside from standing for a Māori electorate, Māori may also be elected by standing for a general electorate or a list seat.

Māori participation in local government

176. The Local Government Act 2002 contains provisions relating specifically to Māori to contribute to local government decision making. The Act recognises and respects the Crown's obligations under the Treaty by placing specific obligations on councils, including:

- Establishing, maintaining and improving opportunities for Māori to contribute to local government decision-making processes
- Ensuring processes are in place for consulting with Māori
- Considering ways to foster Māori contribution to local government decision-making processes and
- Providing relevant information to Māori.

177. Councils use various mechanisms to increase Māori participation in local governance, for example:

- Appointments of iwi representatives to council standing committees
- Establishment of joint council and Māori planning or advisory committees
- Establishment of specific Māori standing committees or ad hoc committees
- Māori strategy and liaison departments within Councils and Council Kaumatua
- Providing updates on council projects directly to Māori organisations
- Maintaining schedules of Māori stakeholders to enable targeted consultation
- Service and funding agreements with Māori groups and organisations and
- Performance targets for Māori participation opportunities in decision-making.

[39] There are seven political parties presently represented in the 51st Parliament by 121 members of Parliament.

178. The Local Electoral Act 2001 allows councils and electors to establish Māori wards (territorial authorities) or constituencies (regional councils). So far two councils have Māori constituencies (though one established its Māori constituencies through a specific local Act prior to the 2002 amendments to the Local Electoral Act 2001).

179. The Local Government (Auckland Council) Act 2009 established an Independent Māori Statutory Board to promote issues of significance for the mana whenua and Māori of Auckland to assist the Council in its decision making, and in carrying out existing legislative requirements.

Education

180. In its 2013 concluding observations, the Committee recommended New Zealand consider strengthening its special measures to increase the level of educational attainment of Māori and Pacific children, in particular by focussing on addressing the causes of absenteeism and dropout rates in schools.

181. A key task for the **Ministry of Education — Te Tāhuhu o te Mātauranga**, in cooperation with other education agencies, is to ensure the education system meets the learning needs of all New Zealanders. Most learners are in English-language settings, but the system enables learning in Māori-medium, Pacific peoples language or bilingual settings that recognise and build on language, culture and identity.

182. Despite improvements in overall achievement of National Standards and National Certificate in Educational Achievement (NCEA), more needs to be done for students from low socio-economic, Māori, and Pacific backgrounds.

183. The current general education outcomes are:[40]

- *Participates in early childhood education*: European 98.0 percent, Māori 93.6 percent and Pacific peoples 90.7 percent, Asian 97.3 percent, total 96.1 percent
- *Leaves school with NCEA at Level 2 or above in 2013*: European 83.4 percent, Māori 63.3 percent, Pacific peoples 71.4 percent, and Asian 86.9 percent
- *Attains a University bachelor-level degree by age 25*: European 33 percent, Māori 12 percent, Pacific peoples 12 percent and Asian 38 percent[41]
- *Studying Te Reo Māori across Years 9 to13*: Year 9 — 9957, Year 10 — 5463, Year 11 — 4012, Year 12 — 1760, Year 13 — 1537.

184. Some improvements have resulted from efforts by educators, such as a quick rise in results for National Standards and NCEA Level 2 by Māori and Pacific relative to the rest of the population. Students studying Te Reo Māori across Years 9 to 13 are: Year 9 — 9957, Year 10 — 5463, Year 11 — 4012, Year 12 — 1760, Year 13 — 1537.

185. In May 2014, as requested by the Committee, the Government provided detailed information on specific measures aimed at preserving Māori and Pacific languages and development of a Māori language strategy.[42] [43]

[40] Data for year end December 2014.
[41] http://www.educationcounts.govt.nz/indicators/main/education-and-learning-outcomes/114325.
[42] CERD/C/NZL/CO/18-20, paras. 17 and 27.
[43] CERD/C/NZL/CO/18-20/Add.1, paras. 18-39.

Māori education

186. Māori students make up about 23.3 percent of the total student population, and participation in early childhood education is increasing.

Number of Māori enrolments in licensed ECE services by service type, 2005, 2013

	Year (end of June)	
Service type	*2005*	*2013*
Education & Care	11,924	22,698
Kindergarten	7,933	7,567
Home-based	1,352	3,518
Playcentre	1,922	1,899
Kōhanga Reo	10,062	8,745
Correspondence School	104	136
Total	**33,297**	**44,563**

187. The proportion of Māori school leavers who had not obtained some level of formal qualification has also been reduced by more than half between 2002 and 2013 (from 56.1 percent to 14.8 percent). For Māori learners, participation and achievement in education has improved in recent years and, often, at a faster rate than for the rest of the population. Rates remain below those seen for non-Māori, however.

Ka Hikitia — a focus on action to realise Māori potential[44]

188. *Ka Hikitia — Accelerating Success 2013-2017* is the second phase of the Government's strategy to realise Māori potential. The first phase established the principles for change. The second phase focuses on action across the education system. It involves everyone who plays a role in educating Māori learners in English and Māori: government agencies; education providers, leaders and professionals; whānau, iwi and local communities.

189. Ka Hikitia outlines five focus areas to raise Māori achievement in education, namely improving Māori language, increasing early-childhood education, improving achievement in primary and secondary education, increasing success in tertiary education, and for education sector agencies to create conditions for Māori students to achieve. Strategies to improve the economic circumstances, health and social outcomes for Māori children and whānau are also likely to have flow-on benefits. Since Ka Hikitia was introduced, more Māori children are attending ECE and Māori students' performance in National Standards (reading, writing and mathematics) and NCEA Level 2 has increased.

Attaining higher levels of tertiary education

190. Māori participation and achievement in tertiary education has increased in recent years. Participation in higher level study has increased: 28 percent of Māori students were studying at Bachelors level and above in 2014, up from 21 percent in 2007. The rate at which Māori complete qualifications has also increased: of Māori who started full-time

[44] See also: Parliamentary paper by the Controller and Auditor-General of New Zealand.

study at Level 4 or above in 2007, 62 percent had completed a qualification within five years, compared with a rate of 53 percent for those who started in 2004.[45]

191. The Tertiary Education Strategy 2014-2017 is the statutory framework for tertiary education, and boosting the achievement of Māori and Pacific peoples. *He Kai Kei Aku Ringa — the Māori Economic Development Strategy and Action Plan* — also calls for better connections from education to the workforce. The Government is also working to align pre-trades training with employers and community needs to increase opportunities for Māori and Pacific peoples, through, for example, the Māori Pacific peoples Trades Training Initiative.

192. The Ministry for Women works to build the capability of training providers and Māori and Pacific communities to attract Māori and Pacific girls into trades training.

Supporting and strengthening Māori language

193. Figures from the 2013 Census show that 125,352 Māori are able to converse about everyday things in te reo Māori. However, the percentage of Māori language speakers in the Māori population has decreased from 25.2 percent in 2001 to 21.3 percent in 2013.

194. It is critical to protect and revitalise Māori language by making Māori available to all students. *Tau Mai Te Reo — the Māori Language in Education Strategy 2013-2017* guides the Ministry's and education sector agencies' work on Māori language revitalisation, and is aligned with the Government's Māori Language Strategy. *Tau Mai Te Reo* recognises the importance of iwi and Māori participation, contribution and partnership to strengthen Māori language in education.

195. Māori language in education is a defining feature of our education system. Māori language in education supports both the acquisition and status of the language. Around 12 percent of Māori learners participate in Māori-medium education,[46] with a further 15 percent receiving some teaching and learning in te reo Māori as part of English-medium education.[47] Since 2010, over 4,000 more Māori learners and over 12,000 more non-Māori learners have engaged in Māori language education.

The Māori Language (Te Reo Māori) Bill

196. The Māori Language (Te Reo Māori Bill) was introduced into Parliament in July 2014 to update the Māori Language Act 1987 and give effect to various aspects of the Māori Language Strategy. A key purpose of the Bill is to transfer greater responsibility for Te Taura Whiri, Te Māngai Pāho and the Māori Television Service (Māori language entities) from the Crown to Māori, through the establishment of Te Mātāwai, a new statutory entity.

197. During the year 2015 Te Puni Kōkiri supported the Māori Affairs Committee in its consideration of the Māori Language (Te Reo Māori) Bill. It also provided secretariat support to the Māori Language Advisory Group, appointed to provide independent and expert advice to the Minister on the Bill.

[45] 17.7 percent of Māori aged 15 and over participated in tertiary education in 2013, compared to 10.3 percent of the general population. See also: http://www.educationcounts.govt.nz/statistics/tertiary/participation. Profile and trends 201, p. 73.

[46] Where teaching occurs in and through Māori language for 51-100 percent of the time.

[47] Where learning occurs in and through Māori language for 50 percent or less of the time.

198. The Māori Language Advisory Group undertook extensive consultation on the Bill during 2015. This included 15 regional hui held across the country, yielding constructive feedback.

199. It is expected that the Bill will be reported back to the House by the Māori Affairs Select Committee in 2016.

Māori ICT Development Fund

200. In Budget 2014, $30 million (over a seven year period) was appropriated for the establishment of a Māori ICT Development Fund (the **Fund**). The Fund supports:

- Stimulating Māori participation across the ICT sector as employees, entrepreneurs, managers, governors, owners and investors
- Enhanced use of ICT as an input into Māori economic development and
- Access to the Māori language and culture through ICT.

201. Te Puni Kōkiri and the Ministry of Business, Innovation and Employment have provided joint advice on the administration of the Fund due to Te Māngai Pāho not having the legal authority to administer the Fund.

202. Key stakeholder groups were invited to provide feedback on the draft Operational Framework in July/August 2015. Cabinet approval on how the Fund will be administered is expected later in 2015 with disbursement expected in the first half of 2016.

Pacific peoples' education

203. Pacific students now constitute 9.8 percent of the New Zealand school population, an increase from 8.9 percent in 2006.

204. At primary and secondary school levels, the average performance of Pacific students is still comparatively low. However, there are upward shifts in achievement. The 2013 National Standards data show that more Pacific students are achieving at or above recommended levels across all three standards.

Percentage of Pasifika students achieving "At" or "Above" the National Standard in 2012-2014

	2012	*2013*	*2014*
Reading	62.9	64.2	65.1
Mathematics	59.6	60.9	62.0
Writing	57.1	57.6	59.6

205. NCEA results show that in 2014 83.2 percent of Pacific peoples school leavers gained NCEA Level 1 or above, compared with 73.6 percent in 2009; 71.9 percent of Pacific peoples school leavers left with NCEA Level 2 or above compared with 56.4 percent in 2009; and 37.6 percent of Pacific peoples students left school with NCEA Level 3 and/or a University Entrance Award compared with 23.1 percent in 2009.

206. In 2013, 27.1 percent of Pacific peoples aged 18-24 years participated in formal tertiary education at Level 4 and above. This is a significant improvement from 2001, when only 15.4 percent of Pacific peoples aged 18-24 years participated in tertiary education at Level 4 and above.

The Pasifika Education Plan 2013-2017

207. The Pasifika Education Plan (PEP) sets out the education sector's vision to raise achievement in education for Pacific peoples. Pacific learners, their parents, families and communities are put at the centre of the education system in order to demand better outcomes. PEP aims to get education agencies working collaboratively, accelerate implementation and focus investment.

208. Reports on PEP's implementation show primarily positive results. Prior participation rates have grown for Pacific children, rising from 85.3 percent in 2009 to 90.7 percent in 2014. The first year of PEP has shown improvements in participation and achievement rates, in particular:

- An increased number of Pacific children participating in early childhood education
- An increase in Pacific peoples achievement against the three National Standards
- Continued growth in Pacific peoples enrolments in tertiary education, most of which has come at Level 4 or above
- Improved participation rates for Pacific students in tertiary qualifications at Level 4 or above have improved relative to non-Pacific peoples and
- Improved Pacific peoples' tertiary completion rates, and retention rates for first year students are almost equal to non-Pacific peoples.

Establishing strong foundations for life-long education

209. Early learning opportunities and foundations for life-long education are being built with Pacific communities to support for the youngest learners and their families including: supported playgroups, home-based projects and projects supporting Pacific people's identity, language and culture.

210. Building partnerships with Pacific church communities is another strategy being implemented to raise participation. Four church communities, with a total membership of over 50,000 Pacific peoples people have joined together for a national approach to early learning that meets their children's needs.

Schooling — Accelerating literacy and numeracy

211. Between 2012 and 2013, Pacific peoples 18-year-olds showed a greater improvement of achievement in NCEA Level 2 or above than non-Pacific peoples. If both groups continue to increase at the same rate, in 2017 the proportion of Pacific 18-year-olds with NCEA Level 2 will be higher than for non-Pacific peoples 18-year-olds.

212. The Achieving Through Pacific Languages Programme continues to support schools and community groups to establish and operate centres that promote achievement for Pacific peoples bilingual learners.

213. Youth Guarantee includes the Achievement Retention Transitions 2013-2017 initiative, where the Ministry of Education works in partnership with secondary schools to identify young people at risk of not achieving NCEA Level 2, with a particular focus on Māori and Pacific students. Pacific people's participation in Achievement Retention Transitions 2013-17 has increased, as did the number of Secondary-Tertiary Programme (Trades Academies) places.

214. The Power UP programme is a core component of the PEP's implementation. The programme was piloted in 2013 to build the capability and knowledge of Pacific families and communities to better support their children to achieve NCEA. Benefits can be seen

following implementation in September 2014. Over 1,221 families are registered in the programme so far.

Attaining higher levels of tertiary education

215. There has been an ongoing increase in the Pasifika achievement of New Zealand Qualification Framework Level 4 and above qualifications. The percentage of Pasifika learners aged 18-24 years participating at Level 4 is anticipated to achieve parity with non-Pasifika by 2017, and the proportion of Pasifika full-time learners who completed a qualification five years after starting tertiary study continues to increase at a faster rate than that for all learners.

216. Accelerating Pasifika learners' participation and success in the tertiary sector is a focus of the Tertiary Education Strategy 2014-19 and the Pasifika Education Plan. System shifts in tertiary education are creating more opportunities for Pasifika students, for example, the Tertiary Education Commission is incentivising providers to improve the participation, achievement and completion rates for Pasifika students.

217. The Ministry of Education is also advising on changes to support participation and achievement in vocational training, for example, expanding Māori and Pasifika Trades Training from 600 contracted places in 2013 to 1,900 places in 2015 and setting aside over $8 million more funding for further growth. To support learners to make well-informed decisions about what and where to study, the Ministry is improving the quality, accessibility and relevance of information about the benefits and outcomes of tertiary study.

Pacific peoples Languages

218. At the time of the 2013 Census the proportion of Pacific peoples who could speak more than one language was 45 percent. This was higher than for the overall New Zealand population (18.6 percent). The 2013 Census showed an increasing decline in the use of Cook Islands Māori, Niuean and Tokelauan in New Zealand communities. Without intervention, this pattern is likely to increase. The Government supports schools promoting and respecting all Pacific peoples' languages.

219. Pacific peoples' languages are used as the medium of instruction in a small number of schools across the country. The Ministry of Education provides a range of materials to support the teaching of Pacific people's languages including teaching guidelines for Cook Islands Māori, Vagahau Niue, Tongan, gagana Tokelau, and revised language guidelines for gagana Sāmoa.

220. A smooth transition into English-medium schooling is the goal of the Ministry of Education's Pacific peoples Dual Language Pilot for New Entrants. It involved 152 Samoan children from seven schools. It used dual-language books to support academic success and English-language literacy for children from Pasifika immersion early childhood centres, or those who had not participated in ECE. Positive changes occurred for the children, their families, and teachers. New dual language books in the other Pacific languages will be now developed.

221. The Achieving through Pasifika Languages programme continues to support schools and/or community groups to establish and operate centres that support the achievement of Pasifika bilingual learners in their home language.

Pacific languages and communities

222. The MPIA supports key Pacific community organisations with the delivery of seven Pacific Language Week events in New Zealand. This includes Samoa (May/June), Cook Islands (August), Tonga and Tuvalu (September), Fiji, Niue and Tokelau (October).

223. Each of these language weeks has a variety of community, government, library, media (radio and television coverage), and education-based activities that promote the importance of these languages and cultures across New Zealand.

English as a second language and refugee services

224. The Ministry of Education funds English as a Second Language (ESOL) support for migrant and refugee background students in schools. The individual funding levels were increased in 2014 and in that year over 33,000 students in 1350 schools were provided with ESOL funded tuition from an annual budget of $27.835 million. These students represent 157 different ethnic groups from 163 different countries of birth and 122 different languages.

225. Schools can apply to specialist funding pools to implement a further range of support initiatives to address the additional challenges faced by students from a refugee background. These include the employment of refugee education coordinators in schools, the employment of bilingual tutors and liaison workers, and currently provide support for over 700 students.

226. Online training modules have been developed to assist schools to meet the language learning needs of these diverse student groups.

227. Refugee and Migrant Education Co-ordinators at the Ministry promote and assist with practices supporting inclusive education to reduce barriers for refugee and migrant students, families and communities. They provide information and liaise with other agencies so migrant and refugee background children can access education, including those with special needs as well as children unlawfully in New Zealand.[48]

228. In response to student diversity within their local community, individual schools can use their operational funding for local innovations, such as immersion classrooms or bilingual units, and additional language support. Units are typically set up where there are sufficient numbers of students of a particular language or ethnic group. Schools with students in Years 7 to 10 are required to provide opportunities for students to learn additional languages, with some schools providing language learning opportunities for students younger than this.

Education for children unlawfully in New Zealand

229. New Zealand children aged between 5-19 years have a right to free education in state and state integrated schools. Education is compulsory for domestic students aged between six and 16 years. Most migrant children, whether they are citizens, residents, on temporary visas or in New Zealand unlawfully, are entitled to free compulsory education.

230. The number of school-age children unlawfully in New Zealand is unknown as people may leave the country or move. In 2010, the Government passed legislation to enable the provision of free education for most children unlawfully in New Zealand. The majority of applications for access to free education are eventually approved.

[48] See http://2020.org.nz/programmes/computers-in-homes for the Refugee Computers in Homes programme.

International students

231. New Zealand remains an attractive destination for foreign students, reflected in a sizeable international education sector. In 2014, a total of 110,198 international students were enrolled with a New Zealand provider,[49] a 13 percent increase compared to 2013.

232. Following the passage of the Education Amendment Act in 2015, the Code of Practice for the Pastoral Care of International Students and its regulatory framework is being updated. There will be a new disputes resolution scheme replacing the International Education Appeal Authority (IEAA). The IEAA 2012 Annual Report indicates it received 50 complaints of which 43 were from international students.

233. Information on racial discrimination experienced by international students is not routinely collected. However, the recent report "The Satisfaction of International Students in New Zealand Universities and ITPs" (2013), suggested that one in ten international students report being dissatisfied or very dissatisfied with their experience living in New Zealand. The primary cause of dissatisfaction given is the cost of living, while most students ranked safety and security as the most positive aspect of living in New Zealand.

Health

234. In its 2013 concluding observations, the Committee recommended New Zealand intensify its efforts to improve the health outcomes of Māori and Pasifika. Equality has improved but significant gaps remain in health outcomes for New Zealanders. Māori, Pacific peoples and socio-economically disadvantaged groups generally experience worse health outcomes than other New Zealanders. The causes of these differential outcomes are complex, but include differences in access, use and experience of health services, as well as differences in exposure to risk factors.

Māori health

235. Life expectancy for Māori has improved over the past 15 years. However, it is currently about seven years lower than it is for non-Māori.

236. As a group, Māori have poorer health outcomes than non-Māori for many other indicators, including higher mortality rates for ischaemic heart disease, stroke and cancers and a higher prevalence of diabetes and chronic respiratory diseases. Some of these differences are due to higher exposure to a range of risk factors, including smoking. Variation in access to and subsequent use and experience of health services is also likely to play a role. Māori are more likely to experience unmet need for primary health care.

He Korowai Oranga — Māori Health Strategy

237. *He Korowai Oranga* — the refreshed Māori Health Strategy, 2014 — is the overarching framework to guide the Government and the health and disability sector to achieve the best health outcomes for Māori. It complements the overall health[50] and disability[51] strategies, and the Public Health and Disability Act 2000.[52]

238. The Public Health and Disability Act 2000 requires district health boards (DHBs) to enable Māori to participate in and contribute to strategies for Māori health improvement.

[49] New Zealand providers include schools, private training establishments (including English language schools), universities and institutes of technology/polytechnics.

[50] http://www.health.govt.nz/system/files/documents/publications/newzealandhealthstrategy.pdf.

[51] http://www.odi.govt.nz/resources/publications/nzds/index.html.

[52] http://www.legislation.govt.nz/act/public/2000/0091/latest/DLM80051.html.

These, and related requirements, are imposed in order to recognise and respect the Treaty principles and to improve the health status of Māori.

239. The Act includes the objective for DHBs to reduce health disparities by improving health outcomes for Māori and other population groups, and to reduce, with a view to eliminating, health outcome disparities between the various population groups.[53]

240. To achieve this objective, DHBs must provide an annual Māori health plan (MHP) as a formal accountability document. MHPs involve national indicators that include Health Targets, DHB and primary health organisation performance measures that link to the leading causes of mortality and morbidity for Māori. DHBs must produce a stand-alone MHP and ensure that they monitor Māori and the total population to reach the same targets.

Pacific peoples' health

241. In 2006, the estimated life expectancy for Pacific men was 73.9 years and 78.9 years for Pacific women. Although these figures have been improving, they are more than four years less than for the total population. Pacific peoples fare less well for some health indicators. For example, between 2002 and 2006, Pacific children were 1.5 times as likely to be admitted to hospital for gastroenteritis and 4.5 times as likely as European children to be admitted to hospital for serious skin infections. Pacific children and young people (aged 0-24 years) are nearly 50 times more likely than European children (and twice as likely as Māori) to be admitted to hospital with acute rheumatic fever. Pacific peoples have high rates of obesity and diabetes.

242. Pacific peoples experience higher levels of unmet need for primary care, with the cost of general practitioner visits and prescriptions identified as being key barriers. Pacific children have poorer dental health than other children, and gaps are widening as dental health improves in non-Pacific children.

243. '*Ala Mo'ui: Pathways to Pacific Health and Well-being 2014-2018* sets out the priority outcomes and actions for improving health outcomes for Pacific people. It is driven by the vision of achieving health equity for all Pacific peoples of New Zealand.

Government interventions addressing health inequalities

244. Interventions by the Government to address inequalities include:

- The Rheumatic Fever Prevention Programme (RFPP): Māori and Pacific children and young adults (aged 4-19 years) have the highest rates of rheumatic fever. The RFPP was established in 2011 and significantly expanded in 2012 to prevent and treat strep throat infections, which can lead to rheumatic fever. The Government has invested over $65 million to identify and trial new initiatives to reduce the rheumatic fever rates throughout New Zealand.
- Zero fees for general practice visits: From 1 July 2015, all children under 13 are eligible for zero fees general practice visits, both during the day and after hours. Under 13s are also exempt from the standard $5 pharmacy charge for each prescription item from 1 July 2015. Zero fees previously applied to under 6s.
- Very Low Cost Access (VLCA) scheme: VLCA supports general practices with an enrolled population of 50 percent or more high-needs patients (defined as Māori, Pacific or New Zealand Deprivation Index quintile 5) where the practice agrees to maintain patient fees at a low level to improve access.

[53] Section 22 (1)(e)(f).

245. Immunisation rates have significantly improved in New Zealand over the last few years and gains have been made towards health equity. Immunisation rates for Māori children are now equal to or better than non-Māori rates in much of the country. The latest data for young children shows that at 31 March 2015, 95 percent of Pacific children were fully immunised at age 8 months and 96 percent at age 2 years, compared with 93 percent for both age groups for the total population.

246. Racial discrimination is recognised as a contributor to disparities and driver of ethnic health inequalities. It is important to understand how racism operates as a health risk in order to develop interventions that reduce ethnic inequalities in health.[54]

247. The New Zealand Health Survey (NZHS) measures self-reported physical and mental health status, health risk and protective factors, and use of health care, among individuals usually resident in New Zealand and living in private dwellings.[55] In the 2006/07 NZHS, Māori and Asian peoples had similar reporting of multiple forms of discrimination and were 10 times more likely to report experiencing multiple (three or more) types of discrimination than European.

248. Experience of racial discrimination was significantly linked to poorer health outcomes (mental and physical health, cardiovascular disease, and smoking) and health service utilisation across all ethnic groups. It is likely that the potential health burden is much greater for those ethnic groups that report a higher prevalence of racial discrimination.[56]

Youth Suicide and Self-Harm

249. Māori youth have a higher suicide rate and hospitalisation for intentional self-harm than other ethnic groups in New Zealand. In 2012, there were 107 male and 43 female Māori youth suicides (22.3 and 13.8 per 100,000 males and females respectively). The Māori youth suicide rate was 2.8 times the non-Māori youth rate (48.0 per 100,000 Māori youths compared with 17.3 per 100,000 non-Māori youths).

250. The factors contributing to suicide are complex and multi-factorial and range from individual to broad social factors. For Māori, the additional impact of cultural influence of historical, political and social processes compounds their risk. The focus for suicide prevention ensures that mainstream services and initiatives are responsive to Māori.

251. There are specific initiatives in the Government's Suicide Prevention Action Plan 2013-2016 to support Māori and Pacific communities to increase resilience and to respond to suicide. A recent initiative is the investment in a national programme Waka Hourua[57] aimed at building the capacity of Māori whānau, hapū, iwi, and Pacific families and communities to prevent suicide. The programme is managed by a Māori health workforce provider.

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[54] Harris, R. Cormack, D. Tobias, M. Li-Chia, Y. Talamaivao, N. Minster, J. Timutimu, R. (2011) Self-reported experience of racial discrimination and healthcare use in New Zealand: Results from the 2006/7 New Zealand Health Survey. The Science of research on Racial/Ethnic discrimination and health.

[55] Ministry of Health (2008) Methodology report for the 2006/7 New Zealand health survey. Wellington.

[56] Harris, R. Cormack, D. Tobias, M. Li-Chia, Y. Talamaivao, N. Minster, J. Timutimu, R (2012) The pervasive effects of racism: Experiences of racial discrimination in New Zealand over time and associations with multiple health domains. Social Science & Medicine, 74 (2012) 406-415.

[57] www.wakahourua.co.nz.

252. Te Puni Kōkiri has contributed funding to a wide variety of projects and initiatives around the country in the area of suicide prevention since 2011. These have included funding to support families, communities and schools impacted by suicide, training and resource development, national conferences, wānanga, strategy development and research support.

253. Te Puni Kōkiri is currently investing $2.1 million over the next 2 years (2015-17). This fund will be aimed at providing support to Māori suicide prevention services working with Māori youth.

Employment

254. The employment rights (such as the right to a written contract, grievance procedures and freedom from discrimination or harassment) of all New Zealand residents are protected by the Employment Relations Act 2000 and the HRA. If a person encounters racial discrimination in employment, they may choose to take an action for racial discrimination under one of these Acts. During the reporting period, the HRC received 285 complaints alleging discrimination on a race-related ground in the area of employment and 127 in pre-employment. The Employment Relations Authority has determined six personal grievance cases featuring claims of racial discrimination or harassment during the reporting period. One was upheld.

255. The unemployment rate for all persons has decreased to 5.8 percent of the labour force in the year to December 2014. The Household Labour Force Survey showed that labour market outcomes for most ethnicities continued to improve over the reporting period:

- Unemployment declined for European, Māori and Pacific peoples over the year to December 2014. The rate for Pacific peoples fell more sharply than the rates for other ethnic groups.
- Māori employment was higher compared with the previous year, with employment of 269,800. The Māori unemployment rate decreased to 12.3 percent in the year to December 2014.
- Pacific peoples employment increased by 11.7 percent in the year to December 2014 to 111,400, while the Pacific peoples unemployment rate dropped from 15.3 to 12.0 percent in the same year. Most of this drop is attributable to lower unemployment for Pacific women.
- Asian employment rate increased compared with the previous year, with employment at 279,000 and the unemployment rate increased slightly to 6.8 percent in December 2014 compared to the previous year.
- Middle East, Latin America and Africa (MELAA) peoples employment increased compared with the previous year by 7.0 percent to 18,700. The unemployment rate for all ethnic groups is lower than it was in 2011 when last reported to the Committee.
- The Māori, Pacific and MELAA peoples' unemployment rates are considerably higher than the 4.4 percent unemployment rate for Europeans recorded in December 2014.
- The manufacturing, wholesale and retail trades, and health care and social assistance are the major employing industries for Māori and Pacific peoples. The proportion of Māori and Pacific peoples employed in the utilities and construction industries is also high. While many of the jobs in these industries are characterised as low skilled, employment in skilled occupations for Māori and Pacific peoples has increased.

Initiatives to improve employment opportunities

256. Cultural linkages are important in achieving improved labour market outcomes. The Ministry of Business, Innovation and Employment (MBIE) website has a section about Māori Labour Market Information to assist anyone with an interest in Māori social and economic issues to gain a better understanding about labour market trends among Māori and key information about their people, their skills and past and current employment trends and opportunities.[58]

257. The Pacific Economic Strategy 2015-2021 was launched in August 2015. It identifies key outcome areas that will support Pacific people in New Zealand to contribute to and share in New Zealand's economic success. Using a collaborative approach, the Strategy involves working with Pacific and non-Pacific stakeholders in both the public and private sectors to improve sustainable employment, housing and business opportunities for Pacific people. The Strategy will help advance New Zealand's strategic and economic interests for Pacific people, including fostering and strengthening the interface with the Pacific region and Pacific communities.

258. The Pacific population is growing three times faster and is younger than the national population. By 2026 Pacific people will make up a significant proportion of the New Zealand labour force and potentially 30 percent of the Auckland working population. The Pacific youth population also means increased contribution to the labour force past 2026.

259. The Strategy will look to improve Pacific people's involvement and contribution to the New Zealand economy through increased participation in higher skilled work in high growth industries, more Pacific people owning sustainable businesses and more Pacific people in stable financial positions.

260. MBIE coordinates the meeting of the bi-annual Pacific Strategic Think Tank forum to inform the strategic direction through identifying future trends, challenges and opportunities for Pacific economic development. Representatives on the Think Tank are from the MPIA, Ministry of Education, Ministry of Foreign Affairs and Trade, Business leaders, Pacific academia, NGO representatives and other relevant stakeholders.

Migrants

261. There is no separate legislative employment framework for migrant workers in New Zealand. All employees, including migrant workers, are covered by the employment legislation, including the Employment Relations Act 2000. This Act, along with a number of specific pieces of legislation, provides the employment framework for all employees in New Zealand, including the minimum employment entitlements (e.g. minimum wages, annual holidays, and protection of wages).

262. The Immigration Amendment Act brought in tougher penalties for employers who exploit migrant workers early in 2015. Under the new law, employers who exploit temporary workers will face a jail sentence of up to seven years, a fine not exceeding $100,000, or both. A new offence has also been introduced for employers who exploit legal temporary or unlawful workers and are reckless as to their immigration status. This offence carries a jail sentence of up to five years, a fine not exceeding $100,000, or both. Exploitative employers who hold residence visas will be liable for deportation if the offence was committed within 10 years of gaining residence. Under the Employment Standards Legislation Bill currently before Parliament, employers convicted under this legislation could also face management banning orders.

[58] www.dol.govt.nz/services/LMI/Māori/index.asp.

Social services

263. New Zealand's social assistance programmes aim to ensure an adequate standard of living and provide opportunities for all to participate fully in society, regardless of ethnicity. Māori and Pacific peoples are over-represented in a number of poor social outcomes. Every effort is made by the Government to ensure that all services reach vulnerable Māori and Pacific families and are delivered in culturally acceptable ways.

264. **The Ministry of Social Development — Te Manatū Whakahiato Ora** implemented Welfare Reform changes from July 2013. Some of the main changes were the restructuring of benefit categories, the introduction of a new service delivery model and the adoption of an investment approach to welfare.

265. One of the key pillars of Welfare Reform is the adoption of the investment approach, which uses actuarial modelling tools to recognise and make transparent the full long-term costs to the welfare system of groups or segments of people within that system. An annual valuation is done to assess the impact of Work and Income activity on future liability and hold Work and Income accountable for its performance.

266. Actuarial valuations of the welfare system identify likely future trends in benefit receipt based on historical behaviour. The investment approach takes that information, breaks it down and uses it to shape future performance management, services and case management. This information is also used to develop trials aimed at trying new approaches to working with clients, allowing the Ministry of Social Development to stop, continue or expand trials in accordance with the results.[39]

267. The investment approach does not specifically target any particular ethnic group. However, it is likely that a number of ethnicities will be represented in the profile of the clients the investment approach aims to help into work.

Young Persons and Their Families

268. Child Youth and Family's (CYF) responsiveness is embedded in the Ma Matou Ma Tatou strategy, underpinned by Pūao te Atatū and also the Children, Young Persons and their Families Act 1989.

269. Since 2013 CYF has, with the help of its Māori leadership infrastructure and organisational leadership, co-constructed with internal staff and key external stake holders (e.g. iwi, NGOs), a CYF Indigenous and Bicultural Principled Framework. This places a premium on Tangata Whēnua bodies of knowledge, and wisdom, focuses on the potentiality and uniqueness of our young, and validates Tangata Whenua ways of engaging with each other.

270. Since August 2012, CYF has engaged with iwi across New Zealand to discuss options for a partnered approach to improving outcomes for mokopuna and whānau Māori who are known to, or likely to come into the custody of CYF. CYF has currently established formal partnership agreements with four iwi organisations. These partnerships are currently exploring and co-designing services that will support the cultural needs of mokopuna Māori and their whānau consistent with the aspirations of iwi for their people.

271. CYF has developed Va'aifetu — Pacific frameworks for practice to complement its existing practice frameworks which will enable practitioners to engage more effectively with Pacific people. The framework aims to see more sustainable outcomes that reduce the

[39] The Ministry of Social Development implemented five trials on flexible childcare assistance; in-work support; intensive client support; young supported living payments clients; and people affected by the recession.

number of Pacific children that return to the notice of the state, a reduction in their number in long-term state care, and a decrease in youth offending.

People with disabilities

272. In 2013, the disability rates for the four main ethnic groups were: Māori — 26 percent, European — 25 percent, Pacific peoples — 19 percent and Asian — 13 percent. Māori children have a disability rate of 15 percent, compared with 9 percent for non-Māori children.

273. In 2013, the employment rates for disabled people in the four main ethnic groups were: European — 46 percent, Asian — 46 percent, Māori — 44 percent and Pacific peoples — 41 percent.

274. The Disability Strategy is a long-term plan for changing New Zealand to a more inclusive society. It contains specific objectives for promoting the participation of disabled Māori and disabled Pacific peoples. In addition, the Ministry of Health's Disability Support Services emphasises culturally responsive service provision in both Whaia Te Ao Marama: The Māori Disability Action Plan for Disability Support Services, 2012-2017 and Faiva Ora: National Pacific peoples Disability Plan, January 2014-June 2016.

275. One of the priorities for the promotion and maintenance of New Zealand Sign Language (NZSL) is improving access for deaf Māori and Tikanga Māori because of the need to access three different languages (English, Māori and NZSL). The recently established New Zealand Sign Language Fund will make available funding for initiatives such as the training of trilingual interpreters.

276. In 2013, a three-year demonstration of Enabling Good Lives was introduced in Christchurch. This was in recognition of the need for change to the disability support system through the New Zealand Disability Strategy and the UN Convention on the Rights of Persons with Disabilities. The relationship between Māori and the Crown under the Treaty will be core to the future vision for the disability support system, based on key principles of participation at all levels; partnership in delivery of support, and the protection and improvement of Māori Wellbeing.

Housing

Māori housing

277. Māori make up 14.9 percent of the New Zealand population, yet are disproportionately high users of social housing. As at 31 August 2015, 21,859 of main tenants for the State housing were Māori — 34.4 percent of all main tenants. Likewise, 89,275 Māori individuals received an income-tested accommodation subsidy, 29.8 percent of all accommodation supplement recipients as at December 2014.

278. Census 2013 showed that 109,980, or 28.2 percent, of Māori adults (aged 15 years and over) lived in dwellings they owned or partially owned. Levels of Māori home ownership is declining, down from 30.1 percent in 2006 and 31.7 percent in 2001. 3,063 Māori did not reside in a fixed physical address.

279. In response to this issue, the Government launched He Whare Āhuru He Oranga Tāngata (He Whare Āhuru) — the Māori Housing Strategy in July 2014. The strategy sets out six directions to improve Māori housing over the period of 2014 to 2025. It aims to support two major outcomes, namely improving housing for Māori and their whānau; and increasing housing choices for Māori by growing the Māori housing sector.

280. The first three directions set out the opportunities open to Māori and their whānau to improve their housing situation. The remaining three directions set out the opportunities for Māori organisations to create more housing choices for Māori.

281. The strategy was developed at a time when new opportunities were emerging for Māori organisations to play a greater role in housing. The government's social housing reforms, rights of first refusal over surplus land (where such rights apply as a result of Treaty settlements) and the transfer of Housing New Zealand homes to community housing providers all create opportunities for Māori to develop housing that will better meet their needs.

282. To contribute to the implementation of He Whare Āhuru, the Government has established a Māori Housing Network within Te Puni Kōkiri. The Network shares practical advice, information and helps with Māori housing projects; manages Government funding for Māori housing projects; and works with other agencies on a coordinated approach to Māori housing.

283. The Network is whānau-centred, working closely with whānau Māori and communities and supporting them to develop their own housing solutions. This approach takes place within the wider context of Whānau Ora, with a similar focus on empowering whānau to identify and meet their own needs, rather than having solutions imposed on them.

284. The current focus of the Network (2015-2018) is on smaller scale projects that:

- Improve the quality of housing for whanau
- Build capability of whānau, hapū and iwi in the Māori housing sector
- Increase the supply of affordable housing for Māori.

Pacific peoples' housing

285. Although Pacific people make up 7.4 percent of New Zealand's population, the proportion of Housing New Zealand tenants who are Pacific people (including those who have identified with more than one ethnicity) has increased from 25 percent in 2006 to 38 percent in 2013. This number is greater in Auckland where Pacific peoples make up 45 percent of all Housing New Zealand tenants, an increase from 40 percent in 2006.

286. As with other populations in New Zealand, the home ownership rate for Pacific peoples is declining. For Pacific people aged 15 years and over living in New Zealand on 5 March 2013, 18.5 percent owned or partly owned their usual residence; in 2006, this was 21.8 percent. For comparison, 49.8 percent of the population aged 15 years and over owned or partly owned their usual residence. At the end of June 2014, Pacific people made up 6 percent of all recipients of the Accommodation Supplement.

287. The Pacific Economic Strategy (described earlier) also looks to support Pacific people and their communities towards economic prosperity with Pacific people in quality, suitable and affordable housing as one of its goals.

Article 7

Ministry for Culture and Heritage

288. The **Ministry for Culture and Heritage — Manatū Taonga** provides policy advice on arts, culture and heritage matters, including commenting on cultural property rights and protection, particularly Māori heritage; produces history, heritage and reference products and services; provides research, development and advocacy for the cultural sector

and administers government funding and monitoring for arts and heritage agencies in the sector.

289. The Ministry funds a number of agencies which work to promote understanding and tolerance of the many cultures which make up the New Zealand identity. These agencies fund, develop and support Māori and other ethnic arts and heritage and hold events and exhibitions to celebrate and educate about cultural diversity and tolerance. Examples of their activities are described below.

290. The Ministry funds a range of programmes and initiatives designed to assist iwi/Māori with their cultural objectives. This includes Te Matatini (a Māori performing arts organisation), Creative NZ (funder of Māori customary arts and contemporary arts practice, such as theatre, music, dance, literature, visual and craft/object arts), and Ngā Taonga Sound and Vision (an organisation with audio-visual archives important to Māori, Pacifica and other ethnic communities).

Te Papa

291. *Te Papa* continues to be a world leader as a bicultural museum, with the Kaihautū leading bicultural strategy within the museum, and inclusion of indigenous knowledge, world views and value systems across the organisation. Regular exhibitions developed in partnership with iwi Māori tribes, as well as the location of the marae in the centre of *Te Papa*, demonstrate this perspective and its unique brand of museum practice. *Te Papa* actively works with communities including iwi, hapū and whānau on a range of programmes for preserving our cultural heritage and actively assisting ongoing development.

Heritage New Zealand

292. Formerly the Historic Places Trust, *Heritage New Zealand* is responsible for the establishment and maintenance of a Heritage List/Rārangi Kōrero of New Zealand's historical and cultural heritage, including historic and *wāhi tapu* places and areas. Under the *Heritage New Zealand Pouhere Taonga Act* 2014, this was extended to also include *wahi tupuna*, recognising the ancestral significance of places. Any person may apply to Heritage New Zealand's Māori Heritage Council to have any *wāhi tapu*, *wāhi tapu* area, or *wahi tupuna* entered on the List.

New Zealand Film Commission

293. The New *Zealand Film Commission* has recognised the need to expand and develop the base of Māori filmmaking in the film industry. In 2013-14 the Commission established a new initiative, He Ara, to empower groups of Māori and Pacific peoples film makers to develop films in a collaborative fashion.

NZ On Air

294. In 2014, *NZ On Air* invested $4.5 million in television programmes with appeal for all New Zealanders but with content that makes a conscious effort to reveal something of the past, present or future Māori world. A further $265,000 was invested in Māori radio programming as well as $300,000 in a Māori web series as part of NZ On Air's digital strategy. In total, NZ On Air invested $5.1 million on Māori as one of its special focus audiences.

Māori broadcasting

295. The Māori broadcasting sector has continued to grow. The Government has provided significant investment, and has developed various ownership interests in, and regulatory mechanisms for, Māori broadcasting.

296. There are 28 iwi radio stations that broadcast on frequencies for the promotion of the Māori language and culture. These stations are required to broadcast a minimum of four hours of Māori language content on a daily basis. Te Māngai Pāho (Māori Broadcasting Funding Agency) provides funding of $500,000 per annum to 21 of the stations to broadcast eight hours Māori language content on a daily basis (a total of $10.5 million per annum across all funded stations).

297. Television New Zealand and Radio New Zealand have specific Māori language and culture components within their charters, and New Zealand on Air is also required to promote Māori language and culture. There is an emerging Māori language presence on the internet, and rapidly emerging opportunities in other communication technologies (e.g. mobile phones, BNZ ATM machines, gaming consoles).

298. Launched in 2004, the Māori Television Service initially averaged 7.9 hours of daily broadcast, with at least fifty percent of content in te reo Māori. The Service now broadcasts a minimum core of eight and a half hours (3:00-11:30 pm), with an additional five hours language learning hours (10:00 am-3:00 pm) a day. This was recently expanded further with the introduction of early morning tamariki (children's) programmes from 6:30 am.

299. In March 2008, the Service launched a second channel, the Te Reo Channel. Initially broadcasting three hours a day, seven days a week, a re-launch in 2012 saw a further increase in weekday broadcasting hours to six and a half hours. The channel offers a full service of 95-100 percent Māori language programming.

300. The combined annual minimum hours of broadcasting across both channels increased from 5,807 in 2013 to 7,448 hours in 2014, with a minimum Māori language content of 52 and 98 percent respectively.

301. Access to broadcast services to as many people as practicable has also been increased with both channels now available across digital satellite and terrestrial platforms.

302. Complementing its already existing television channels, in 2013 the Service launched a new website, integrating its television and on-line services. As a result, by the end of June 2014, unique visitors to the site had increased by 117 percent (1.13 million). Viewing from mobile devices also grew exponentially, increasing from 244,000 page views to in excess of one million.

303. In 2014, the Māori Television Service received annual operating funding of just over $16 million from the Crown, and accessed a further $16 million for production funding through Te Māngai Pāho.